

3	IN THE MATTER OF	:	TRANSCRIPT
4	CSH Old Tappan, LLC	:	OF
	Coral/Capital Senior Housing	:	PROCEEDING
	244 Old Tappan Road	:	
6	Block 1606, Lot 3	:	
7	Assisted-living facility	:	

8 B E F O R E:

9 BOROUGH OF BOROUGH OF OLD TAPPAN PLANNING BOARD
THERE BEING PRESENT:

10 WILLIAM WEIDMANN, CHAIRMAN (7:25 P.M. ARRIVAL)

11 NICK MAMARY, VICE CHAIRMAN

12 WILLIAM BOYCE, COUNCILMAN MEMBER (RECUSED)

13 THOMAS GALLAGHER, COUNCILMAN MEMBER (RECUSED)

14 ANNA HAVERILLA, MEMBER

15 CHARLES MAGGIO, MEMBER

16 MICHAEL ALESSI, MEMBER

DAVID KEIL, MEMBER

DANIEL ELLER, MEMBER

NICKI LOULOUDES, ALTERNATE #1 MEMBER (ABSENT)

ROBERT SCOZZAFAVA, ALTERNATE #2 MEMBER (ABSENT)

DAVID HOLLOWAY, ALTERNATE #3 MEMBER (ABSENT)

VICKEN BEDIAN, ALTERNATE #4 MEMBER

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19 THOMAS SKRABLE, PE, Board Engineer
20 JOHN SZABO, PP, Borough Planner
21 DIANE FROHLICH, Board Secretary

	<u>W I T N E S S E S</u>	<u>SWORN</u>	<u>PAGE</u>
3	GEORGE WHEATLE WILLIAMS, PP, AICP		9 (continued)
4	Public Questions/Comments		
	Patrick Gambuti	139	
5	16 Autumn Lane		
	Kurt Carpenter	142	
6	168 Central Avenue		

EXHIBITS

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>IDENT/EVID</u>
15	A-31	Engineering Plans prepared by	
16		Dynamic Engineering,	
17		Last Revised 9/26/22	8
18	A-32	Updated Stormwater Management	
		Report, Last Revised 9/22/22	8

<p style="text-align: right;">5</p> <p>1 ACTING CHAIRMAN MAMARY: Okay. So I</p> <p>2 guess our application, 244 Old Tappan Road.</p> <p>3 MR. REGAN: Diane, is the chairman</p> <p>4 arriving?</p> <p>5 MS. FROHLICH: He should be here</p> <p>6 shortly, but he said to start.</p> <p>7 MR. REGAN: Okay.</p> <p>8 COUNCILMAN GALLAGHER: I'll be stepping</p> <p>9 down.</p> <p>10 MR. REGAN: Yes, because the</p> <p>11 D variances are implicated, so the Class I and</p> <p>12 Class III members --</p> <p>13 MS. FROHLICH: And Councilman Boyce.</p> <p>14 (Whereupon, Councilman Gallagher and</p> <p>15 Councilman Boyce recuse themselves and step</p> <p>16 off the dais.)</p> <p>17 MS. PRICE: Hi.</p> <p>18 All set?</p> <p>19 Good evening, Gail Price from the firm</p> <p>20 of Price, Meese, Shulman & D'Arminio again for the</p> <p>21 application of CSH at 244 Old Tappan Road.</p> <p>22 I'm back for this evening for our</p> <p>23 testimony of our professional planner who I expect</p> <p>24 will tie together all of our prior witnesses'</p> <p>25 testimony in conjunction with the proofs that are</p>	<p style="text-align: right;">7</p> <p>1 changed.</p> <p>2 MS. PRICE: I agree, Bob,</p> <p>3 wholeheartedly.</p> <p>4 And as we have done in the past, I</p> <p>5 supplied Diane with a copy of the last transcript.</p> <p>6 So everything should be up and</p> <p>7 available and we're ready to proceed from there.</p> <p>8 We also supplied our new set of plans</p> <p>9 on October 3rd of -- October -- Dynamic Engineering</p> <p>10 submitted new plans, original date of May 18, '21.</p> <p>11 MR. REGAN: Revised 9/26?</p> <p>12 MS. PRICE: Right, 9/26, that set.</p> <p>13 MR. REGAN: Are you going to want them</p> <p>14 marked?</p> <p>15 MS. PRICE: I think I would like them</p> <p>16 marked at this point.</p> <p>17 MR. REGAN: We're up to A-31, I think.</p> <p>18 If I'm wrong on that, let me know.</p> <p>19 MS. PRICE: Let's see...</p> <p>20 MR. SKRABLE: Mr. Chairman, just while</p> <p>21 you're figuring that out, I will not be here for the</p> <p>22 December meeting.</p> <p>23 If we get through planning tonight and</p> <p>24 start question, public questions and then get into</p> <p>25 public comment, I'm not sure that it's critical I be</p>
<p style="text-align: right;">6</p> <p>1 required pursuant to the Municipal Land Use Law to</p> <p>2 justify the grant of the required variances, as well</p> <p>3 as the site plan that's been presented.</p> <p>4 Before I do that, I just -- I went back</p> <p>5 in my binder and I saw that we filed this application</p> <p>6 on December 22nd of '21, so it's been a long time.</p> <p>7 MR. REGAN: The first hearing was</p> <p>8 February 9th.</p> <p>9 MS. PRICE: Right.</p> <p>10 Our first hearing was in February of</p> <p>11 '21.</p> <p>12 So it's definitely our hope, of course,</p> <p>13 with the rights, you know, of the public's input that</p> <p>14 we can wind this application down to a conclusion in</p> <p>15 this calendar year before spanning yet another year</p> <p>16 into '23.</p> <p>17 MR. REGAN: I think that's important,</p> <p>18 because you never know whether the membership of the</p> <p>19 board will change with the new year, depending on</p> <p>20 appointments or resignations or whatever.</p> <p>21 MS. PRICE: Right.</p> <p>22 MR. REGAN: It's always good,</p> <p>23 particularly with a significant application with</p> <p>24 multiple hearings, that it be completed before the</p> <p>25 current board may possibly have its membership</p>	<p style="text-align: right;">8</p> <p>1 here.</p> <p>2 I think the board knows where I stand</p> <p>3 on the drainage aspects of the project, but I just</p> <p>4 want to let you know that schedule-wise.</p> <p>5 ACTING CHAIRMAN MAMARY: Okay.</p> <p>6 Thank you.</p> <p>7 MS. PRICE: A-31.</p> <p>8 (Whereupon, Engineering Plans prepared</p> <p>9 by Dynamic Engineering, Last Revised 9/26/22</p> <p>10 is marked as Exhibit A-31 for identification.)</p> <p>11 MS. PRICE: And that was filed together</p> <p>12 with the updated stormwater management report, last</p> <p>13 revised September 22nd.</p> <p>14 I don't know if we need to mark that as</p> <p>15 a separate or --</p> <p>16 MR. REGAN: If you want to, we'll do</p> <p>17 it.</p> <p>18 MS. PRICE: Okay.</p> <p>19 MR. REGAN: A-32.</p> <p>20 (Whereupon, Updated Stormwater</p> <p>21 Management Report, Last Revised 9/22/22 is</p> <p>22 marked as Exhibit A-32 for identification.)</p> <p>23 MS. PRICE: So if I could, unless there</p> <p>24 are any questions of me, I'd like to call George</p> <p>25 Williams, our planner, for testimony.</p>

<p style="text-align: right;">9</p> <p>1 MR. REGAN: Mr. Williams, would you</p> <p>2 raise your right hand, please.</p> <p>3 Do you swear or affirm that the</p> <p>4 testimony you will give in this proceeding shall be</p> <p>5 the truth, so help you God?</p> <p>6 MR. WILLIAMS: I most certainly do.</p> <p>7 G E O R G E W. W I L L I A M S, PP, AICP</p> <p>8 105 Grove Street, Suite 3, Montclair, New Jersey</p> <p>9 07042, having been duly sworn, testifies as</p> <p>10 follows:</p> <p>11 MR. REGAN: And for the record, state</p> <p>12 your full name, please, and spell your last name.</p> <p>13 MR. WILLIAMS: Good evening,</p> <p>14 Commissioners.</p> <p>15 My name is George Wheatle Williams,</p> <p>16 Williams with an "S," W-I-L-L-I-A-M-S.</p> <p>17 MR. REGAN: Thank you.</p> <p>18 MR. WILLIAMS: Thank you.</p> <p>19 VOIR DIRE EXAMINATION</p> <p>20 BY MS. PRICE:</p> <p>21 Q. George, could you provide your</p> <p>22 background for the board and the members of the</p> <p>23 public, specifically your educational background and</p> <p>24 your professional background and experience in the</p> <p>25 area of professional planning?</p>	<p style="text-align: right;">11</p> <p>1 Lastly, I would say that most proud of</p> <p>2 the fact that I've served as a volunteer on my</p> <p>3 hometown zoning board of Montclair, New Jersey.</p> <p>4 Q. And you are specifically aware of this</p> <p>5 applicant having served as the planner in conjunction</p> <p>6 with its applications in Norwood, New Jersey and</p> <p>7 Washington Township, correct?</p> <p>8 A. That is correct.</p> <p>9 Q. And your license is in good standing?</p> <p>10 A. It is.</p> <p>11 Q. And you have been accepted as an expert</p> <p>12 witness in the zoning matters that you referred to?</p> <p>13 A. Correct, and in particular in</p> <p>14 applications for this applicant in other</p> <p>15 municipalities.</p> <p>16 MR. REGAN: Acting Chairman, I believe</p> <p>17 Mr. Williams' credentials may be accepted as an</p> <p>18 expert in the field of professional planner.</p> <p>19 ACTING CHAIRMAN MAMARY: Okay, we</p> <p>20 accept.</p> <p>21 THE WITNESS: Thank you, Mr. Chairman.</p> <p>22 Thank you, Counsel.</p> <p>23 DIRECT EXAMINATION</p> <p>24 BY MS. PRICE:</p> <p>25 Q. So, Mr. Williams, in conjunction with</p>
<p style="text-align: right;">10</p> <p>1 A. Certainly.</p> <p>2 Commissioners, again, good evening, I'm</p> <p>3 a founding principal of the firm Nishuane Group</p> <p>4 headquartered in Montclair, New Jersey at 105 Grove</p> <p>5 Street, Suite No. 3.</p> <p>6 I completed -- I am a licensed</p> <p>7 professional planner in New Jersey, also certified</p> <p>8 nationally by the American Institute of Certified</p> <p>9 Planners.</p> <p>10 I completed my graduate studies at</p> <p>11 Rutgers Graduate School at Rutgers University now</p> <p>12 known as the Bloustein School, just to date myself a</p> <p>13 little bit.</p> <p>14 I've been practicing in the field of</p> <p>15 planning for over 30 years now with a primary focus</p> <p>16 on land use, of course, but I and my firm also</p> <p>17 practice in a variety of other planning specialties</p> <p>18 including the development of master plans, zoning</p> <p>19 ordinances, redevelopment plans, a lot of civic</p> <p>20 engagement.</p> <p>21 I've appeared before numerous land use</p> <p>22 boards throughout the State of New Jersey, but I</p> <p>23 believe this is my first time appearing before this</p> <p>24 august board, although I have been in attendance at</p> <p>25 some of the hearings for this matter.</p>	<p style="text-align: right;">12</p> <p>1 your testimony tonight, I believe that you've taken a</p> <p>2 series of steps that are necessary by an expert</p> <p>3 planner when taking on the role of reviewing an</p> <p>4 application.</p> <p>5 Is that correct?</p> <p>6 A. That is correct.</p> <p>7 Q. Maybe you could explain to the board</p> <p>8 and the members of the public those initial steps</p> <p>9 that you took on this particular application.</p> <p>10 A. Certainly, and with the board's</p> <p>11 permission I'll remain seated.</p> <p>12 I'm also going to refer to my notes,</p> <p>13 because there's a lot of information to get correct,</p> <p>14 if you will.</p> <p>15 So I approached this application the</p> <p>16 way we approach every land use application and that</p> <p>17 begins with a review of the local land use documents.</p> <p>18 In this case, Old Tappan's Master Plan</p> <p>19 or reexamination report, the zoning ordinance and all</p> <p>20 of that in the broader context of the Municipal Land</p> <p>21 Use Law.</p> <p>22 Also, of course, I looked at the site</p> <p>23 plan and site plan application that are before you</p> <p>24 this evening. I have reviewed the planning</p> <p>25 literature and case law in support of the relief we</p>

<p style="text-align: right;">13</p> <p>1 are seeking this evening and I visited the project 2 site, I and my staff on several occasions. 3 Finally, I have attended, as I 4 mentioned, a couple of the hearings for this matter 5 and/or my staff for additional hearings and I did 6 review the transcript for those occasions when we 7 were not at or in attendance. 8 Lastly, I did review with particular 9 attention your board planner's report first dated 10 October 11th of 2021 and the revised memo, if I have 11 this correct, February 4th of this year. 12 Q. And then from there you proceeded to 13 look at the application for development specifically 14 based upon the knowledge that you gleaned from Old 15 Tappan's documents, correct? 16 A. That's is correct. 17 Q. So from your perspective, we've heard 18 from the civil engineer, from the architect, from the 19 landscape architect, a variety of witnesses. 20 What is your role in an application? 21 A. So -- and this will not be unfamiliar 22 for this board. 23 My role as the planner is to provide 24 the requisite statutory proofs on the record. 25 Typically, in my experience and my</p>	<p style="text-align: right;">15</p> <p>1 know that this is an application for an 2 assisted-living development. 3 (Whereupon, Chairman Weidmann is now in 4 attendance at 7:25 p.m.) 5 THE WITNESS: Worth repeating, however, 6 is the benefit of the 10 percent of the total bed 7 count will be Medicaid eligible and to that end, 10 8 of the 100 beds proposed will satisfy our Certificate 9 of Need for the affordable housing obligation under 10 the state statutory law. 11 So other than that, I won't go through 12 the details of the project. 13 What I would like to do, if it's okay 14 to go into that now, is the recap. I'm going to 15 begin with taking a little bit of license and say to 16 the board, as I mentioned earlier I have had the 17 opportunity to work with the applicant and its 18 representative in the form of Joe McElwee and I would 19 begin by saying that this is an applicant, for me a 20 client that is a pleasure to work with. 21 What you see of Mr. McElwee as a 22 representative of the applicant is what you get. He 23 is that way in every community in which Capitol 24 Seniors Housing enters. That's important for a few 25 reasons.</p>
<p style="text-align: right;">14</p> <p>1 firm's experience we build upon all of the testimony 2 you've heard from the prior witnesses. 3 In fact, in many cases they establish 4 the predicate for my professional planning opinion 5 and so what I would like to do is state a few things 6 for the record. I'll try not to be redundant, but 7 there are two instances during my testimony where you 8 will hear some repeated information. The first will 9 be simple statement for the record and the second 10 will probably be when I recap some of that testimony 11 that you heard from the prior witnesses for this 12 matter. 13 Q. So why don't you start us off with how 14 you started with your analysis? 15 A. So, again, for the record this is 16 property commonly referred to as 244 Old Tappan Road 17 as read into the record by the chairperson and 18 identified in the municipal tax records as 19 Block 1606, Lot 3 and it's located in the RA-40 20 residential one-family district. 21 That is important, because that's what 22 drives the need for our variances. 23 I won't go through the details of the 24 project, that was covered at length by the applicant, 25 the site engineer and the project architect. You</p>	<p style="text-align: right;">16</p> <p>1 First, this is an applicant, for me a 2 client, that encourages its team to be as creative 3 and comprehensive as possible, sparing no expense, 4 and I think you've seen evidence of that. 5 Also, a good neighbor. As planners, 6 and I think your board planner will agree, we are 7 trained to engage with the community, if possible. I 8 don't always get clients that agree with that, but 9 Capitol Seniors Housing does and that's evidence in 10 the testimony you heard from Mr. McElwee earlier 11 about his efforts to reach out to some of the 12 stakeholders in the area. 13 In my opinion, as a professional 14 planner, that kind of engagement with the 15 neighborhood actually makes for a better product 16 moving in. 17 Some of the results of this engagement 18 resulted in benefits that accrued not just to the 19 applicant or the site, but to the community as a 20 whole. 21 I will repeat this on one or two 22 occasions, but examples are: The widening of Old 23 Tappan Road, for example, the regrading of a street 24 to help with runoff. 25 Q. Just let me stop you there.</p>

<p style="text-align: right;">17</p> <p>1 A. Okay.</p> <p>2 Q. Both of those items in your review,</p> <p>3 both the widening of Old Tappan Road and the</p> <p>4 modification in the crown to help the property owner</p> <p>5 on Holbrook, neither of those items were triggered by</p> <p>6 this application.</p> <p>7 Is that correct?</p> <p>8 A. That's correct.</p> <p>9 And worth repeating again in the</p> <p>10 context of my introductory comments about this</p> <p>11 applicant being a good neighbor wherever they go and</p> <p>12 that's certainly evidence in this particular</p> <p>13 instance.</p> <p>14 Q. Okay.</p> <p>15 A. I'm going to mention the Certificate of</p> <p>16 Need. I will preface my comments by acknowledging</p> <p>17 that financial considerations are not part of this</p> <p>18 board's deliberation, but there are one or two</p> <p>19 references in the Certificate of Need that I thought</p> <p>20 were worth repeating.</p> <p>21 One is the total project cost is listed</p> <p>22 as \$26,000,000. That's before all of the additional</p> <p>23 costs.</p> <p>24 It's worth sharing that with this</p> <p>25 board, however, in terms of the character of the</p>	<p style="text-align: right;">19</p> <p>1 area, no disturbance proposed and we are providing an</p> <p>2 additional 10-foot buffer to the wetlands.</p> <p>3 The wetlands will function the same as</p> <p>4 they currently do, which goes to this design's team</p> <p>5 or site design team's commitment to being sensitive</p> <p>6 to the natural resources and sensitive areas and as</p> <p>7 may have been mentioned by counsel at a previous</p> <p>8 meeting, we have our LOI for this particular site.</p> <p>9 Finally, preserving the historic stone</p> <p>10 portion of the existing dwelling on the site will be</p> <p>11 relocated across the street to borough property,</p> <p>12 again, at the applicant's expense.</p> <p>13 And this is, again, another example of</p> <p>14 this team's efforts to be responsive to issues we've</p> <p>15 heard both from the board and other stakeholders in</p> <p>16 the community.</p> <p>17 The three-story building results in</p> <p>18 less disturbance in the area and allows for the</p> <p>19 applicant to accommodate not only the rooms, but more</p> <p>20 amenities for the proposed users of this site.</p> <p>21 Senior living is an extremely low</p> <p>22 traffic generator. I'm going to mention that again</p> <p>23 under the traffic expert, but you heard testimony</p> <p>24 from our site engineer about that as well.</p> <p>25 We have sufficient parking on site and</p>
<p style="text-align: right;">18</p> <p>1 applicant truly committed to a quality product and</p> <p>2 to, again, not spare expense to deliver a quality</p> <p>3 product which goes to the benefit of the community at</p> <p>4 large as opposed to just the applicant.</p> <p>5 The Certificate of Need also refers to</p> <p>6 the applicant's extensive experience in development,</p> <p>7 ownership and operation of assisted-living</p> <p>8 communities specifically in New Jersey.</p> <p>9 Again, I mentioned some of the other</p> <p>10 experts' testimony are important because they</p> <p>11 established the predicate for my testimony.</p> <p>12 I'm going to begin with our site</p> <p>13 engineer just to recap some of the things that were</p> <p>14 mentioned in the course of his testimony, which span</p> <p>15 several hearings.</p> <p>16 Dan spoke first about the stormwater</p> <p>17 management design which will result in less water</p> <p>18 leaving the site at a slower rate than it currently</p> <p>19 does.</p> <p>20 So if you were to approve our</p> <p>21 application, the site would -- it would result in a</p> <p>22 better site condition than currently exist. Water</p> <p>23 generated by parking areas will be cleaned before</p> <p>24 discharging from the site. We are preserving the</p> <p>25 wetlands and the associated buffer or transition</p>	<p style="text-align: right;">20</p> <p>1 want to emphasize that -- well, reemphasize that when</p> <p>2 I get to the traffic engineer's portion.</p> <p>3 Senior living generates extremely low</p> <p>4 levels of noise. There was some testimony from Dan</p> <p>5 about the generator, perhaps, being one source of</p> <p>6 noise and the applicant has agreed to relocate that</p> <p>7 generator further from the property line, again,</p> <p>8 evidence to being a good neighbor and showing that</p> <p>9 this site can operate or function properly with the</p> <p>10 proposed use. We propose low-level energy efficient</p> <p>11 lights that will not spill over to residential</p> <p>12 property line. We listened to the neighbors concerns</p> <p>13 about the buffer and redesigned the site to move</p> <p>14 closer to Old Tappan Road in order to provide an</p> <p>15 additional 7-foot buffer area to the rear, which is</p> <p>16 closer to the residential use.</p> <p>17 We updated the plan to address fire</p> <p>18 department concerns about providing a grass emergency</p> <p>19 access lane, which allows a fire truck to fully</p> <p>20 circulate the building without the need to turn</p> <p>21 around on the site.</p> <p>22 Even after we had the county comments</p> <p>23 and approval, we listened to the residents, our team</p> <p>24 listened to the residents and they have agreed to</p> <p>25 widen Old Tappan Road, which I mentioned a few</p>

<p style="text-align: right;">21</p> <p>1 moments ago.</p> <p>2 That widening of Old Tappan Road makes</p> <p>3 for a safer circulation pattern and comports with</p> <p>4 other portions of Old Tappan Road.</p> <p>5 Again, this is being done at the</p> <p>6 expense of the applicant and is not triggered by our</p> <p>7 development, but is certainly evidence of being a</p> <p>8 good neighbor.</p> <p>9 Similarly, we were made aware of the</p> <p>10 drainage issue that resulted and this is what counsel</p> <p>11 mentioned a few moments ago down on Holbrook Court</p> <p>12 causing issues for residents there and the applicant</p> <p>13 agreed to re-grade so that that can fix the crown.</p> <p>14 So that would no longer be an issue for</p> <p>15 that resident or residents. Again, not generated by</p> <p>16 this application, but certainly something that</p> <p>17 demonstrates this applicant's desire to be a good</p> <p>18 neighbor.</p> <p>19 Landscaping, careful inventory of the</p> <p>20 specimens and code compliant replacement plan, the</p> <p>21 special attention given to the specimen selections.</p> <p>22 Mr. Lagenstein provided significant testimony about</p> <p>23 that and agreed to comport with what the ordinance</p> <p>24 requirement is and had an exchange with your board</p> <p>25 planner about how to satisfy your requirements for</p>	<p style="text-align: right;">23</p> <p>1 variance is required when the proposed use, in this</p> <p>2 case an assisted-living facility is not among the</p> <p>3 permitted uses in the zone district.</p> <p>4 There are several bulk and area</p> <p>5 deviations. I will submit to the board that in my</p> <p>6 opinion those deviations or C variances could be</p> <p>7 subsumed under the granting of the D-1 use variance,</p> <p>8 but we feel so confident and strongly about the</p> <p>9 C variances that I'll offer proofs in support of</p> <p>10 those as well.</p> <p>11 Those C variances, as you know, begin</p> <p>12 with the improved lot coverage. Allowed is 30</p> <p>13 percent. We come in slightly above that at</p> <p>14 33.4 percent.</p> <p>15 Maximum floor area, allowed is 8,400.</p> <p>16 This is where you see a larger delta. We come at</p> <p>17 81,342 square feet and I'll explain why that delta is</p> <p>18 a bit larger than the others.</p> <p>19 Maximum height of building to the ridge</p> <p>20 line. The allowed height is 35 feet, 2-and-a-half</p> <p>21 stories. We're very close to that by the way. We</p> <p>22 meet the standard in terms of height. We come in at</p> <p>23 34-feet-5-inches and three stories. So it's the</p> <p>24 three stories that we do not comport with.</p> <p>25 Loading spaces, four are required.</p>
<p style="text-align: right;">22</p> <p>1 landscaping.</p> <p>2 I would just submit that based on the</p> <p>3 plans you've received, that landscaping buffering is</p> <p>4 substantial.</p> <p>5 Finally, and I will close this out, our</p> <p>6 traffic expert testified, again, that the -- from a</p> <p>7 traffic expert perspective that this use is a low</p> <p>8 traffic generator. The proposed widening of Old</p> <p>9 Tappan Road is an added safety benefit and the extra</p> <p>10 parking spaces provided on this site will more than</p> <p>11 satisfy the real demand for parking on this site and</p> <p>12 we added the, I believe the electric vehicle charging</p> <p>13 stations as well.</p> <p>14 Perhaps, most importantly, this a less</p> <p>15 intense traffic generator than some of the permitted</p> <p>16 uses that could go on the site, such as a school or a</p> <p>17 daycare and that goes to just how appropriate this</p> <p>18 site is for the proposed use as an assisted-living</p> <p>19 facility.</p> <p>20 With that, Commissioners, I'm going to</p> <p>21 recite the reliefs that are captured in your report.</p> <p>22 They've been testified to by our site engineer</p> <p>23 before, but for the record they are the D-1 use</p> <p>24 variance.</p> <p>25 Again, as this board knows, a D-1 use</p>	<p style="text-align: right;">24</p> <p>1 We're proposing one.</p> <p>2 Side yard -- rear yard buffer, required</p> <p>3 62.2, proposed 47.9.</p> <p>4 Side yard buffer, 40.1 required,</p> <p>5 20.1 feet is being proposed.</p> <p>6 Commissioners, lastly, the sign.</p> <p>7 Ground sign area, required is 30 square feet. We</p> <p>8 propose 37.1. And I'll talk about that when I get to</p> <p>9 the proofs.</p> <p>10 And, lastly, the distance from the</p> <p>11 bottom of the sign display area to the ground,</p> <p>12 required is 4 feet, we're proposing 2 feet.</p> <p>13 So that's the recitation of the</p> <p>14 reliefs. What I would like to do is just talk</p> <p>15 generally first about some of the planning issues and</p> <p>16 then go into the proofs.</p> <p>17 Q. That's perfect.</p> <p>18 A. This is the fact that we're here</p> <p>19 requesting a D-1 use variance is not uncommon in my</p> <p>20 experience.</p> <p>21 There are a number of municipalities</p> <p>22 that do not have specific regulations and standards</p> <p>23 for this particular use.</p> <p>24 The state defines an assisted-living</p> <p>25 facility as follows: A licensed -- a facility</p>

<p style="text-align: right;">25</p> <p>1 licensed by the department of health to provide</p> <p>2 apartment style housing, dining and assisted-living</p> <p>3 services when needed.</p> <p>4 Apartment units offer at a minimum, one</p> <p>5 unfurnished room, a private bathroom, a kitchenette,</p> <p>6 a lockable door on the unit entrance.</p> <p>7 In our planner's dictionary, the</p> <p>8 definition provided is: A special combination of</p> <p>9 housing, supportive services, personalized assistance</p> <p>10 and healthcare designed to respond to the individual</p> <p>11 needs of those who need help with the activities of</p> <p>12 daily living. A facility with a central or private</p> <p>13 kitchen, dining, recreational and other facilities</p> <p>14 with separate bedrooms or living quarters where the</p> <p>15 emphasis of the facility remains residential.</p> <p>16 Commissioners, that is what's before</p> <p>17 you this evening.</p> <p>18 Again, with the number of amenities</p> <p>19 that have been described and then focused on</p> <p>20 providing a quality option for this housing typology.</p> <p>21 Q. And that use has been recognized by the</p> <p>22 Certificate of Need that you referenced from the</p> <p>23 state?</p> <p>24 A. That's correct.</p> <p>25 MS. PRICE: And just for the record,</p>	<p style="text-align: right;">27</p> <p>1 particularly the second prong of the negative</p> <p>2 criteria, but in this particular instance, it's</p> <p>3 probably good to set the stage with some references</p> <p>4 to your 2016 Master Plan Reexamine Report.</p> <p>5 There are a number of sections that</p> <p>6 speak generally to the importance of addressing the</p> <p>7 needs of seniors in Old Tappan and then there are</p> <p>8 some very specific goals and objectives that in my</p> <p>9 opinion as a professional planner would be advanced</p> <p>10 if you were to grant our application.</p> <p>11 The first is Goal 3, senior citizen</p> <p>12 residential where it speaks to the encouraging of</p> <p>13 age-restricted housing with varying levels of care</p> <p>14 within reason and with the specific controls that</p> <p>15 accompany conditional land uses.</p> <p>16 In the alternative and if so desired,</p> <p>17 these facilities could provide with their own land</p> <p>18 use and zoning designation and that comes from</p> <p>19 page 15.</p> <p>20 Goal No. 4, to provide a variety of</p> <p>21 housing types and densities that insure a balanced</p> <p>22 housing supply as one component of this goal, Old</p> <p>23 Tappan Borough recognizes the particular housing</p> <p>24 needs of its citizens with special needs, this goal</p> <p>25 statement should be interpreted broadly to</p>
<p style="text-align: right;">26</p> <p>1 the Certificate of Need is A-22 that the witness has</p> <p>2 referred to.</p> <p>3 THE WITNESS: I believe it's dated June</p> <p>4 of this year, but it's marked in the record.</p> <p>5 BY MS. PRICE:</p> <p>6 Q. Yes, June 29th.</p> <p>7 A. Very briefly, there are a number of</p> <p>8 articles that speak to this land use.</p> <p>9 One that we used in our preparation is</p> <p>10 a zoning update or zoning newsletter. It's called</p> <p>11 "Zoning Obstacles Facing a Developer of Senior</p> <p>12 Housing Options."</p> <p>13 And it notes that, again, this is not</p> <p>14 uncommon to find municipalities that don't have</p> <p>15 specific regulations for its land use and it's likely</p> <p>16 due to the fact that the demand for such housing has</p> <p>17 increased so rapidly in recent years as elderly</p> <p>18 individuals and their families seek senior housing</p> <p>19 within continuing care communities, retirement</p> <p>20 communities.</p> <p>21 This is exactly the demographic trend</p> <p>22 that's occurring in Old Tappan and, I would say, just</p> <p>23 about all over the country.</p> <p>24 Typically, I don't discuss the Master</p> <p>25 Plan until it's time to go through the proofs,</p>	<p style="text-align: right;">28</p> <p>1 specifically include encouraging a delivery of</p> <p>2 special needs affordable housing.</p> <p>3 And, Commissioners, perhaps, even more</p> <p>4 on point, Goal No. 5, create opportunities to</p> <p>5 encourage the creation of both market rate and</p> <p>6 affordable senior housing. A policy statement for</p> <p>7 that goal, and I quote, that:</p> <p>8 "The baby boom generation continues to</p> <p>9 age, Old Tappan has witnessed an aging of its</p> <p>10 population. There's a general lack of housing</p> <p>11 design to service the unique housing needs of</p> <p>12 older residents and while senior housing has</p> <p>13 been developed in the Borough to meet this</p> <p>14 need, Old Tappan should continue to encourage</p> <p>15 developers or the public sector to provide</p> <p>16 such housing, especially to meet the needs of</p> <p>17 older Old Tappan residents who seek housing</p> <p>18 design specifically for your needs."</p> <p>19 Commissioners, that is spot on for</p> <p>20 what's before you this evening. This is a housing</p> <p>21 topology on a continuum of housing that is dedicated</p> <p>22 to that population cohort.</p> <p>23 Q. And the language that you just read,</p> <p>24 you've taken directly from Old Tappan's documents,</p> <p>25 correct?</p>

<p style="text-align: right;">29</p> <p>1 A. That's correct, on page 46.</p> <p>2 So based on that, Commissioners, on the</p> <p>3 review of the land use documents, the review of the</p> <p>4 site plan, site plan application, in my professional</p> <p>5 opinion there is ample planning support for the</p> <p>6 requested relief and I guess that's a good segue into</p> <p>7 addressing the variances now.</p> <p>8 Q. Great.</p> <p>9 A. And I'll take a sip of water.</p> <p>10 Q. And you'll address both positive and</p> <p>11 negative as required by the land use law?</p> <p>12 A. Yes.</p> <p>13 In fact, this board is aware there's a</p> <p>14 particular guideline for inherently beneficial uses,</p> <p>15 but I'll get to that in a second.</p> <p>16 Generally speaking, as this board</p> <p>17 knows, a D-1 use variance requires the satisfaction</p> <p>18 of both the affirmative criteria and the negative</p> <p>19 criteria.</p> <p>20 The affirmative criteria can be deduced</p> <p>21 by a showing of special reasons. Special reasons are</p> <p>22 the use is inherently beneficial, which we submit</p> <p>23 this is, that the granting of our relief would</p> <p>24 advance the purposes of zoning, which I submit this</p> <p>25 would, that the use is particularly suited for the</p>	<p style="text-align: right;">31</p> <p>1 opinion, there's no substantial impairment to the</p> <p>2 zone plan.</p> <p>3 In fact, I would argue if you grant our</p> <p>4 relief, this board would actually be advancing some</p> <p>5 goals and objectives of your plan.</p> <p>6 I mentioned inherently beneficial. The</p> <p>7 Municipal Land Use Law under 40:55D-4 provides a</p> <p>8 definition for "inherently beneficial uses" and I'm</p> <p>9 going to read that definition.</p> <p>10 "It is a use, which is universally</p> <p>11 considered of value to the community because</p> <p>12 it fundamentally serves the public good and</p> <p>13 promotes the general welfare. Such a use</p> <p>14 includes, but is not limited to a hospital, a</p> <p>15 school, a childcare center, a group home, wind</p> <p>16 or solar energy facility or structure.</p> <p>17 Inherently beneficial uses presumptively</p> <p>18 satisfy the positive criteria."</p> <p>19 So I gave you what the positive and</p> <p>20 negative criteria were. Inherently beneficial uses</p> <p>21 have the advantage of presumptively satisfying the</p> <p>22 affirmative criteria. Therefore, they don't have to</p> <p>23 show that enhanced quality of proof from the <u>Medici</u></p> <p>24 court case.</p> <p>25 But I'll go one step further, I</p>
<p style="text-align: right;">30</p> <p>1 particular site.</p> <p>2 I would argue that this is, although</p> <p>3 that's not a requirement for inherently beneficial</p> <p>4 uses.</p> <p>5 And lastly, Commissioners, if you were</p> <p>6 to deny our application, it would constitute an undue</p> <p>7 hardship on the applicant. We're not submitting</p> <p>8 that's one of the special reasons today.</p> <p>9 That's all balanced with the negative</p> <p>10 criteria, which this board knows is a two-prong test.</p> <p>11 The first prong is that if you were to</p> <p>12 approve our application, there would be no</p> <p>13 substantial detriment to the public good.</p> <p>14 I'm going to say, parenthetically, in</p> <p>15 my opinion there would absolutely be no substantial</p> <p>16 detriment and that word comes directly from the</p> <p>17 Municipal Land Use Law.</p> <p>18 In fact, I would argue no detriment</p> <p>19 given all of the agreements that have been made by</p> <p>20 this applicant to perfect not only the development</p> <p>21 scheme, but some off-track approvals as well.</p> <p>22 The other prong is no substantial</p> <p>23 impairment to the zone plan.</p> <p>24 It's kind of why I began with</p> <p>25 references to your Master Plan early on. In my</p>	<p style="text-align: right;">32</p> <p>1 mentioned that there is a court case that provides</p> <p>2 guidance for boards as they review inherently</p> <p>3 beneficial uses and that court case, as you probably</p> <p>4 know, is the <u>Sica</u> court case. The <u>Sica</u> court case</p> <p>5 says, well, just because it's inherently beneficial</p> <p>6 doesn't mean you get an automatic approval, although</p> <p>7 we would like that. It gives you four steps. And</p> <p>8 those four steps are as follows.</p> <p>9 First, identify the public interest at</p> <p>10 stake. I think Mr. McElwee did that in his</p> <p>11 testimony, but I'm going to go through each of these</p> <p>12 again.</p> <p>13 The second is identifying any</p> <p>14 detriments that might ensue from the grant of the</p> <p>15 variance. You've heard me say there are no</p> <p>16 detriments, but, again, I will go through these.</p> <p>17 The third is consideration of</p> <p>18 appropriate conditions imposed by the board to reduce</p> <p>19 the aforementioned detriments. This board has heard</p> <p>20 a number of agreements that could be appropriate for</p> <p>21 conditions. I'm going to defer to our counsel and</p> <p>22 board counsel to capture all of those, but some of</p> <p>23 them I've mentioned already in terms of what this</p> <p>24 applicant has agreed to do to make not only the site</p> <p>25 better, but the surrounding area better.</p>

1 There are several court cases that
 2 speak to inherently beneficial uses. I won't go
 3 through them in great detail, but just to give a bit
 4 of context for the remainder of my testimony, but the
 5 D-1 use variance, the first is Krousos v. Zoning
 6 Board, and I apologize if I butchered the name
 7 "Krousos," but in that court, in that case, the court
 8 found that the proposition of an Alzheimer's
 9 facility, residential facility was deemed inherently
 10 beneficial use and invoked the less stringent Sica
 11 test that we're proposing to you this evening for our
 12 assisted-living facility.

13 In that case, the court also found the
 14 board acted within its authority in concluding that
 15 the applicant's property did accommodate a large
 16 assisted-living home for persons affected with
 17 Alzheimer's disease.

18 I hearken back to Mr. McElwee's
 19 testimony about the application before you including
 20 a number of units for memory care. So this is very
 21 similar to the case that I just mentioned.

22 Finally, Commissioners, the Jayber,
 23 Inc. v. Municipal Council, that court found that the
 24 grant of variance for congregate care housing
 25 facility for senior citizens was also inherently

1 beneficial and recognized that it promoted the
 2 general welfare.

3 In Borough v. -- excuse me -- Borough
 4 of Roselle Park v. The Township of Union, the court
 5 found that senior citizen housing inherently serves
 6 the public good.

7 So there is a fair body of literature
 8 and court cases that support our testimony to you
 9 that this, or my testimony to you that this
 10 application is inherently beneficial.

11 Beginning with the first step under the
 12 Sica test, the public interest, part of that public
 13 interest is articulated in your Master Plan. I've
 14 mentioned a few goals and objectives. Just to repeat
 15 one of them, the plan recommends that senior citizen
 16 residential land uses of all types and levels of care
 17 be added as a conditional use within their
 18 surrounding zoning district with specific controls.

19 In this manner, these facilities would
 20 be treated as desirable land uses that would be
 21 encouraged within the borough and that's page 15.

22 That applicant's testimony was very
 23 similar. He mentioned in his testimony at the first
 24 hearing that his company, Capitol Seniors Housing
 25 does significant market analysis before they select

1 locations and that they found that this location,
 2 this community demonstrates a demand for this type of
 3 housing comporting with what your Master Plan says.

4 Our demographic analysis, we looked at
 5 the 2019 American Community Survey five-year
 6 estimates and found the following: Approximately
 7 27.7 percent of the population of Old Tappan was
 8 60 years or older, which was an increase from
 9 20.6 percent in 2010. Regionally, approximately 24.6
 10 of Bergen County residents were 60 years or older in
 11 2019, increasing from 18.1 percent in 2010.

12 Thus, the senior resident population of
 13 Old Tappan is greater than the Bergen County cohort
 14 as a whole.

15 However, it demonstrates that both
 16 residents of Old Tappan and the greater Bergen County
 17 region are aging in place and will need this type of
 18 housing or housing for this cohort on a continuum.
 19 You heard Mr. McElwee refer to it as a "Silver
 20 Tsunami."

21 Step No. 2, negative impacts of the
 22 use. Again, my opinion is that there are certainly
 23 no substantial negative impacts. I would argue there
 24 are no negative impacts particularly given the
 25 applicant's efforts to meet any concerns expressed by

1 this board and/or the community to mitigate anything
 2 that might be considered a detriment.

3 I mentioned some of those in my
 4 introductory comment, but certainly the site
 5 engineer's efforts to design a site that is safe and
 6 functions at the highest standards, the traffic
 7 engineer's testimony about the low-traffic generation
 8 of this site and how the widening of Old Tappan Road
 9 only increases or enhances safety.

10 Step No. 3, conditions that can be
 11 imposed to ameliorate impacts, again, in my
 12 professional opinion having attended the hearings,
 13 reviewed the transcripts, the applicant and the board
 14 have already identified a number of realistic and
 15 fair conditions that the applicant has agreed to.

16 I won't go through all of them, but
 17 again, some of those have been mentioned during my
 18 introductory comments and repeated as I went through
 19 my recap of what our site engineer testified to.

20 In terms of weighing -- Step No. 4,
 21 weighing the positives against the negatives and
 22 determining if the detriments outweigh the positives,
 23 in my opinion is the reverse. The benefits of the
 24 application for this D-1 use variance to construct an
 25 assisted-living development at this site far outweigh

<p style="text-align: right;">37</p> <p>1 any detriments.</p> <p>2 The benefits accrue to the community in</p> <p>3 terms of providing quality housing for this cohort of</p> <p>4 the population. The benefits of the site design,</p> <p>5 again, far outweigh any potential detriment.</p> <p>6 In fact, the applicant would leave the</p> <p>7 site in a far better condition than currently exists</p> <p>8 and we talked about the relocation of the historic</p> <p>9 structure already.</p> <p>10 Finally, Commissioners, there's</p> <p>11 certainly no substantial detriment to the public good</p> <p>12 or impairment to the zone plan, which is a good segue</p> <p>13 into the remaining variances, which are the</p> <p>14 C variances.</p> <p>15 Q. Talk for a minute about the <u>Price vs.</u></p> <p>16 <u>Himeji</u> case.</p> <p>17 No relation to this Price?</p> <p>18 A. I thought it was the first time I saw</p> <p>19 the case. I will butcher this name as well.</p> <p>20 There are a couple of court cases that</p> <p>21 talk about the ability to subsume the C variances</p> <p>22 under the granting of a D-1 use variance.</p> <p>23 <u>Price v. Himeji</u> is probably the most</p> <p>24 current one and it found that the required bulk</p> <p>25 variances may be considered subsumed under the</p>	<p style="text-align: right;">39</p> <p>1 As a planner I particularly like this</p> <p>2 court case, because it suggests that a board, in</p> <p>3 considering an application like this one, can look at</p> <p>4 the development schema or concept in total. And if</p> <p>5 you agree with what we are proposing is a very good</p> <p>6 development concept, despite those deviations you can</p> <p>7 look at those deviations in the aggregate and say</p> <p>8 overall not withstanding those deviations from the</p> <p>9 strict application of your bulk and area standards,</p> <p>10 the overall development concept works and, therefore,</p> <p>11 you can grant the C variances.</p> <p>12 To that end, as I mentioned earlier,</p> <p>13 the two context for C variances, the first is the</p> <p>14 traditional C-1 or hardship and that means that there</p> <p>15 has to be a demonstration that their hardship is</p> <p>16 created because the lot is unique in its shape, size</p> <p>17 or topography, all of that may be true for this site,</p> <p>18 and then the other is -- or structures lawfully</p> <p>19 thereon, excuse me, and the other is the flexible C-2</p> <p>20 and that allows the board to consider the benefits</p> <p>21 versus the detriments again.</p> <p>22 And if you agree with us that the</p> <p>23 proposal before you is a better zoning alternative</p> <p>24 than the strict application of your code, that</p> <p>25 hearkens back to <u>Pullen</u> and the other court cases and</p>
<p style="text-align: right;">38</p> <p>1 consideration of a use variance. Why? From a</p> <p>2 planning perspective, it's rather straightforward to</p> <p>3 me. The standards that we're being held to are for a</p> <p>4 use that's not intended and so if you agree with our</p> <p>5 showing of proofs for the D-1 use variance, it stands</p> <p>6 to reason that a different set of open area standards</p> <p>7 would apply other than those in the zone district,</p> <p>8 which houses our use.</p> <p>9 In <u>Kessler v. Bowker</u> -- and I think I</p> <p>10 pronounced that one correctly -- the court found that</p> <p>11 where a use variance is sought and there are also</p> <p>12 bulk variances required for the project and the</p> <p>13 applicant proves special reasons for the use</p> <p>14 variance, those special reasons can also be used and</p> <p>15 entitle the applicant to C-1 variances to build --</p> <p>16 C variances, excuse me, in violation of the side</p> <p>17 yard, parking and bulk restrictions. Very similar to</p> <p>18 what we are proposing to you this evening.</p> <p>19 Again, we're comfortable providing the</p> <p>20 proofs despite the court cases that make it pretty</p> <p>21 clear that these C variances can be subsumed under</p> <p>22 the grant of the D-1.</p> <p>23 I would just add one more court case</p> <p>24 and that's the <u>Pullen v. Township of South</u></p> <p>25 <u>Plainfield</u>.</p>	<p style="text-align: right;">40</p> <p>1 I would submit to this board that both the C-1 and</p> <p>2 C-2 are appropriate for your deliberation.</p> <p>3 Under the C-2 context, as you know we</p> <p>4 have to demonstrate that the purposes of zoning would</p> <p>5 be advanced if you were to approve our relief.</p> <p>6 I'll go through several purposes of</p> <p>7 zoning that in my professional opinion would be</p> <p>8 advanced if you were to grant our relief.</p> <p>9 Q. And these purposes are all contained in</p> <p>10 the Municipal Land Use Law, correct?</p> <p>11 A. That is correct.</p> <p>12 Q. You're not making these purposes up?</p> <p>13 A. That is very correct.</p> <p>14 Q. Okay.</p> <p>15 A. The first is Subsection A. It's a --</p> <p>16 it's the first one. It's a bit of a catchall, but I</p> <p>17 submit it is appropriate.</p> <p>18 It is, I quote:</p> <p>19 "To encourage municipal action to guide</p> <p>20 the appropriate use or development of all</p> <p>21 lands in the state in a manner which will</p> <p>22 promote the public health, safety, morals and</p> <p>23 general welfare."</p> <p>24 The deviations we're asking relief</p> <p>25 from, all lend to a better development plan or</p>

<p style="text-align: right;">41</p> <p>1 concept which enables the inherently beneficial use, 2 which is the assisted living and so for that purpose 3 -- for that reason, rather, my opinion is this 4 purpose would be advanced by advancing certainly the 5 public health and general welfare. 6 "Subsection I, to promote a desirable 7 visual environment through creative 8 development techniques and good civic design 9 and arrangement." 10 Commissioners, I'm focusing, for the 11 purpose of the C variances, on the good civic design. 12 Our site engineer focused very clearly on the 13 tradeoffs necessary to develop the site while still 14 being sensitive to the wetlands and other 15 environmentally-sensitive areas. 16 And so if you were to grant these 17 reliefs, some of which are tied to those restricted 18 areas, you would be advancing Subsection I. 19 Q. And with "I," the design that we heard 20 about from the project architect was also relevant, 21 correct? 22 A. Correct. 23 And more often than not, we planners 24 focus on the aesthetic design and visual environment. 25 That's certainly the case here. I would argue it's</p>	<p style="text-align: right;">43</p> <p>1 I'm almost at the end, so I appreciate your 2 indulgence. 3 The first is improved lot coverage as I 4 mentioned early on, 30 percent is allowed. We come 5 in at 33.4. This is a good example of why the 6 C variances should be subsumed under the D-1 use 7 variance. It's a different standard for a different 8 use than what we're proposing, but what's interesting 9 or worth noting is that despite the difference 10 between the one-family development and the 11 assisted-living development, we almost meet that 12 standard. 13 So we're only off by that 3.4 percent 14 and in doing so, the tradeoff in true C-2 context is 15 we preserve the wetlands. 16 Maximum floor area, this is where the 17 delta is greater. Proposed is 81,342 square feet. 18 8,400 square feet is what's the standard. 19 Again, in my opinion this is one that 20 should be subsumed under the D-1 use variance. The 21 standards were intended for a use dissimilar from 22 that which is before you this evening. 23 Q. And that 8400 square feet really goes 24 to development with a single-family home, correct? 25 A. Exactly.</p>
<p style="text-align: right;">42</p> <p>1 the case with all Capitol Seniors Housing 2 developments and you heard extensive testimony from 3 the architect about the efforts that went into 4 designing an aesthetically-pleasing environment 5 through building material, fenestration, roof design, 6 et cetera. 7 "Subsection J, to promote the 8 conservation of historic sites and districts, 9 open space, energy resources and valuable 10 natural resources in the state and to prevent 11 urban sprawl and degradation of the 12 environment through improper use of land." 13 Commissioners, it's the same as above, 14 the civil engineer's attention to being very 15 sensitive to the constraints of this land and the 16 relocation of plan for the historic structure would 17 all be advanced if you were to approve this 18 application. 19 Finally, Commissioners, Subsection L, 20 "to encourage senior citizen community housing 21 construction." 22 This is a form of senior living, 23 housing and so you would advance that purpose as 24 well. 25 Now for the individual deviations and</p>	<p style="text-align: right;">44</p> <p>1 Q. Not utilization of the entire five plus 2 acres? 3 A. Right, and that's why in my opinion, 4 again, it should be subsumed. It makes sense for a 5 single-family home. It's out of whack or not 6 contextually appropriate when you look or apply it to 7 the assisted-living facility on this acreage. 8 Maximum height of the building to the 9 ridge line, allowed 35 feet, 2-and-a-half stories and 10 proposed is 34.5, three stories. 11 Commissioners, again, same as above, we 12 still meet the standard in terms of feet where we are 13 not in strict compliance is the number of stories and 14 you've heard testimony from previous witnesses that 15 allowing the third story makes for the provision of 16 all of those amenities that you heard about work on 17 the site and which serves the needs of the seniors 18 that are intended to live there. 19 Getting close to the end, 20 Commissioners. 21 Loading spaces, four are required, one 22 is proposed. This is a classic C-2 tradeoff. We 23 don't think operationally, we submit we don't need 24 operationally four spaces. 25 In point of fact, if we offered more</p>

<p style="text-align: right;">45</p> <p>1 than one, they would lie fallow, they would cause</p> <p>2 more disturbance and, quite honestly, again, they</p> <p>3 would take away from space in a building that could</p> <p>4 be put to a better use as has been presented.</p> <p>5 Rear yard buffer, 62.2 required,</p> <p>6 proposed 47.9. We meet this from the line, property</p> <p>7 line to the building.</p> <p>8 So in spirit we meet the intent of the</p> <p>9 space, but the function of the definition of the</p> <p>10 buffer does not allow for us to include the detention</p> <p>11 basin.</p> <p>12 So it's kind of a technical variance in</p> <p>13 my opinion. We meet the spirit intent of the</p> <p>14 setback, but technically we are required for relief</p> <p>15 and so in the context of C-2 I think that's</p> <p>16 appropriate.</p> <p>17 Side yard buffer, 40.1 feet required,</p> <p>18 20.1 is proposed.</p> <p>19 Again, from the property line to the</p> <p>20 drive aisle, the distance is closer to 30 feet. So</p> <p>21 we close that gap, but the deviation is really tied</p> <p>22 to the wetlands and sensitive areas. It's worth</p> <p>23 noting that we are actually further from the property</p> <p>24 line than our neighbor, abutting neighbor, the</p> <p>25 church, which is closer on their side, to their side</p>	<p style="text-align: right;">47</p> <p>1 our site and make some intelligent decisions about</p> <p>2 how they enter our site.</p> <p>3 Similarly, the distance from the bottom</p> <p>4 of the sign display area to the ground, 4 foot is</p> <p>5 required, 2 foot is proposed. The intent here was</p> <p>6 strictly to be as context sensitive as possible.</p> <p>7 This standard is probably more appropriate for a</p> <p>8 commercial area, but given the nature and character</p> <p>9 of this area, it was our intent to keep it lower and</p> <p>10 be context sensitive.</p> <p>11 Q. And the 4 foot that is referenced is</p> <p>12 typically to allow a line of sight in a commercial</p> <p>13 area, correct?</p> <p>14 A. That is correct.</p> <p>15 Q. So our design is really for a low</p> <p>16 monument?</p> <p>17 A. That is very correct and, again, in the</p> <p>18 language of the C-2 context, I would submit to this</p> <p>19 board as a professional planner that what we're</p> <p>20 proposing in each of these cases is a better zoning</p> <p>21 alternative than the strict application of your code.</p> <p>22 I can confidently say to you if you</p> <p>23 were to grant any and all of the C variances, there</p> <p>24 would be no substantial detriment to the public good</p> <p>25 and certainly no substantial impairment to the zone</p>
<p style="text-align: right;">46</p> <p>1 of the property.</p> <p>2 Q. And this side yard buffer is on the</p> <p>3 church side, correct?</p> <p>4 A. That is correct.</p> <p>5 Q. And that side yard buffer was increased</p> <p>6 during our application, correct?</p> <p>7 A. That is correct.</p> <p>8 That was one of the agreements of the</p> <p>9 team being responsive to concerns and comments we</p> <p>10 heard to shift so that that side yard was increased.</p> <p>11 Winding down, Commissioners, ground</p> <p>12 sign area, 37.1 square feet is proposed, required is</p> <p>13 30 square feet. This is interesting because the sign</p> <p>14 face is actually much smaller, but when you add the</p> <p>15 decorative borders, et cetera, it does come in at a</p> <p>16 square foot area that is greater than the strict</p> <p>17 application of your code. My understanding is that</p> <p>18 if necessary, the applicant is willing to actually</p> <p>19 decrease it even further, but the intent,</p> <p>20 Commissioners, as you heard from our project</p> <p>21 architect was to provide context sensitive signage on</p> <p>22 the site that was decorative, something that the</p> <p>23 community could be proud of and, of course, we want</p> <p>24 it to be readable, legible, conspicuous, so the</p> <p>25 drivers, the intended audience can easily identify</p>	<p style="text-align: right;">48</p> <p>1 plan.</p> <p>2 And that would conclude my direct</p> <p>3 testimony.</p> <p>4 Again, thank you for being patient, but</p> <p>5 I'm here to answer questions.</p> <p>6 Q. Let me just ask one final question: As</p> <p>7 a professional planner, do you believe that the</p> <p>8 applicant by way of its professionals has satisfied</p> <p>9 the proofs pursuant to the Municipal Land Use Law as</p> <p>10 to what is required for the grant of the variance</p> <p>11 relief for the use, itself, and the various</p> <p>12 C variances, whether they're C-1 or C-2 and whether</p> <p>13 they're subsumed or not?</p> <p>14 A. I do, both for the D-1 and the</p> <p>15 C variances, whether a C-1 or C-2.</p> <p>16 In my opinion, this is a good</p> <p>17 application for all the reasons I've mentioned, but</p> <p>18 more importantly you have an applicant and a team</p> <p>19 that have demonstrated their ability to be creative</p> <p>20 and responsive and meet the burden of those proofs to</p> <p>21 make my job much easier.</p> <p>22 Q. And in your review of everything, did</p> <p>23 you come across anything that was asked of this</p> <p>24 applicant from the board during the course of the</p> <p>25 application that the applicant did not agree to look</p>

<p style="text-align: right;">49</p> <p>1 into or take into account?</p> <p>2 A. No.</p> <p>3 And I like the way you phrased that. I</p> <p>4 mean, this applicant will agree to look into almost</p> <p>5 every suggestion and good bit of advice that's given</p> <p>6 and that's true for this application before you this</p> <p>7 evening.</p> <p>8 MS. PRICE: Thank you.</p> <p>9 CHAIRMAN WEIDMANN: Okay. Questions?</p> <p>10 Tom, do you have any questions of the --</p> <p>11 MR. SKRABLE: Just one, and it doesn't</p> <p>12 necessarily have to pertain to this.</p> <p>13 I think your opinion would be that it</p> <p>14 doesn't pertain to this application, but what would</p> <p>15 you consider an example of a detriment to the public</p> <p>16 good for an application of this type.</p> <p>17 THE WITNESS: It's a good question.</p> <p>18 What's interesting is the assumption is typically</p> <p>19 traffic.</p> <p>20 You've heard me and others testify that</p> <p>21 it's a low traffic generator, but when people -- when</p> <p>22 interested parties see the number of beds or units,</p> <p>23 there's this natural assumption that there will be a</p> <p>24 lot of traffic generated.</p> <p>25 It turns out not to be the case, but</p>	<p style="text-align: right;">51</p> <p>1 testimony.</p> <p>2 I think Mr. Williams is accurate. He</p> <p>3 testified as to the types of things that planners</p> <p>4 look at when we evaluate use variances, particularly</p> <p>5 when they relate to senior housing.</p> <p>6 How would you prioritize, though, I</p> <p>7 mean -- you covered everything, but would you put the</p> <p>8 inherently beneficial first and then if we don't meet</p> <p>9 that, and, of course, you need D-1 or is it the D-1</p> <p>10 and then inherently beneficial -- what is your</p> <p>11 position in terms of -- of the criteria that should</p> <p>12 be most appropriately applied here?</p> <p>13 THE WITNESS: If I understand the</p> <p>14 question, I'm going to say that the inherently</p> <p>15 beneficial use should be the top priority.</p> <p>16 The fact that the application before</p> <p>17 you serves the need of your community and the broader</p> <p>18 region is of paramount importance, I think that's why</p> <p>19 the Municipal Land Use Law has drafted the language</p> <p>20 the way it did. It takes the focus from the benefits</p> <p>21 that accrue directly to the applicant or developer</p> <p>22 and really shifts it to the benefits that accrue to</p> <p>23 the overall community and general welfare. And I</p> <p>24 think that's hugely significant.</p> <p>25 MR. SZABO: And you feel that the</p>
<p style="text-align: right;">50</p> <p>1 that would be one indicator. If the site design is</p> <p>2 not as carefully selected as ours is, the</p> <p>3 juxtaposition of our development onto other</p> <p>4 properties could be a concern.</p> <p>5 But, again, in our case I would submit</p> <p>6 that the site design and engineering is done so</p> <p>7 extremely well that there's no negative impact on the</p> <p>8 surrounding neighbors.</p> <p>9 MR. SKRABLE: That's all I have.</p> <p>10 CHAIRMAN WEIDMANN: That's it?</p> <p>11 MR. SKRABLE: I'm good.</p> <p>12 CHAIRMAN WEIDMANN: John?</p> <p>13 MR. SZABO: I don't have much.</p> <p>14 Density would be part of that negative</p> <p>15 impact potentially?</p> <p>16 THE WITNESS: Correct.</p> <p>17 MR. SZABO: Because too many units on</p> <p>18 the site that expands parking that it can't meet,</p> <p>19 site design flaws with drainage, for example, which</p> <p>20 by the way is still an issue I understand, an open</p> <p>21 issue in terms of the neighbors.</p> <p>22 But you covered all the bases. You</p> <p>23 covered the one aspect of this. You covered the</p> <p>24 inherently beneficial aspect of this and the Cs and I</p> <p>25 -- I really don't take exception to any of your</p>	<p style="text-align: right;">52</p> <p>1 proposed density of the project is suitable and can</p> <p>2 function here in an appropriate manner?</p> <p>3 THE WITNESS: That's a good question.</p> <p>4 I glossed over that in my testimony. I do.</p> <p>5 No matter how you define density in</p> <p>6 this context if you're --</p> <p>7 MR. SZABO: With 87 units with 100</p> <p>8 beds.</p> <p>9 THE WITNESS: Right, right.</p> <p>10 Given the testimony that you've heard,</p> <p>11 I've reviewed from our site engineer and traffic</p> <p>12 experts and given the size of the property, the</p> <p>13 location of the property, it's my opinion that this</p> <p>14 site can comfortably accommodate the density or</p> <p>15 number of units that's being proposed on this site.</p> <p>16 MR. SZABO: I have no further</p> <p>17 questions, Mr. Chairman.</p> <p>18 CHAIRMAN WEIDMANN: Charlie?</p> <p>19 MR. MAGGIO: No, other than that was a</p> <p>20 very good presentation and even made someone like</p> <p>21 myself understand, so I appreciate that.</p> <p>22 Thank you.</p> <p>23 THE WITNESS: Thank you.</p> <p>24 CHAIRMAN WEIDMANN: Anything else?</p> <p>25 MR. MAGGIO: That's it.</p>

<p style="text-align: right;">53</p> <p>1 VICE CHAIRMAN MAMARY: I'll be honest,</p> <p>2 I think your presentation was excellent and I think</p> <p>3 you were very well prepared and delivered all the</p> <p>4 most appropriate points and your use of case law was</p> <p>5 important, so I think you did an excellent job.</p> <p>6 THE WITNESS: Thank you.</p> <p>7 VICE CHAIRMAN MAMARY: Probably one the</p> <p>8 best I've seen in 15, 20 years.</p> <p>9 THE WITNESS: I have a good coach here.</p> <p>10 VICE CHAIRMAN MAMARY: I don't have</p> <p>11 anything really that's earth shattering. I'm just --</p> <p>12 I was always concerned about neighbors and, you know,</p> <p>13 the neighbors to the rear have counsel, I believe.</p> <p>14 The church is the one that is still the</p> <p>15 question of the 20.1 buffer next door. Did they ever</p> <p>16 come back to you with anything?</p> <p>17 MS. PRICE: Negative.</p> <p>18 VICE CHAIRMAN MAMARY: They still have</p> <p>19 not.</p> <p>20 MS. PRICE: Nope, they have not</p> <p>21 responded to any of our attempts to contact from</p> <p>22 several different parties on that and when we -- when</p> <p>23 we looked into it a little bit more, we actually saw</p> <p>24 that they were noncompliant on their side and their</p> <p>25 macadam is almost up to the property line.</p>	<p style="text-align: right;">55</p> <p>1 one, I guess, delivery truck shows up, where do they</p> <p>2 -- where does that truck end up waiting?</p> <p>3 Because is there an area next to where</p> <p>4 the delivery would be that they would not be blocking</p> <p>5 some other area.</p> <p>6 MS. PRICE: We won't have that</p> <p>7 situation at all.</p> <p>8 VICE CHAIRMAN MAMARY: I'm just curious</p> <p>9 about if there's not --</p> <p>10 THE WITNESS: It's all operational.</p> <p>11 VICE CHAIRMAN MAMARY: So, my only</p> <p>12 question is: Is there areas for either other</p> <p>13 vehicles to pass by if that truck is there if another</p> <p>14 truck should show up.</p> <p>15 THE WITNESS: Commissioner, I can take</p> <p>16 a stab at it. I'm not the operations guy, but I have</p> <p>17 worked with this applicant on a couple of</p> <p>18 applications.</p> <p>19 Operationally and experientially, they</p> <p>20 know how to schedule deliveries and drop-offs, so</p> <p>21 that's never a problem.</p> <p>22 MS. PRICE: Yeah, and this is not --</p> <p>23 VICE CHAIRMAN MAMARY: Every time I</p> <p>24 want a delivery, they say it's between 8 and 1 in the</p> <p>25 afternoon.</p>
<p style="text-align: right;">54</p> <p>1 So when we increased it, we saw that it</p> <p>2 was -- you know, they're very close to --</p> <p>3 VICE CHAIRMAN MAMARY: You did that</p> <p>4 without entering their property, I hope, but okay.</p> <p>5 No, all right, well, that's one of my</p> <p>6 concerns and if they're not coming back to you,</p> <p>7 counsel, is that something that they -- do they defer</p> <p>8 or do they give up their right.</p> <p>9 MR. REGAN: No, I mean they can come</p> <p>10 back to the next meeting or if they're not happy with</p> <p>11 the board's decision, they can appeal it.</p> <p>12 They can't waive any rights but not</p> <p>13 being here.</p> <p>14 VICE CHAIRMAN MAMARY: Right.</p> <p>15 They were not -- not answering.</p> <p>16 Okay. And the rear -- the rear</p> <p>17 neighbors have counsel of their own.</p> <p>18 MS. PRICE: Correct.</p> <p>19 VICE CHAIRMAN MAMARY: Specially one</p> <p>20 particular, I guess, person.</p> <p>21 When you said something about the</p> <p>22 loading space, you said four were required but one</p> <p>23 was used.</p> <p>24 THE WITNESS: Correct.</p> <p>25 VICE CHAIRMAN MAMARY: So if more than</p>	<p style="text-align: right;">56</p> <p>1 MS. PRICE: I know, but this is -- this</p> <p>2 is not --</p> <p>3 VICE CHAIRMAN MAMARY: I mean, I don't</p> <p>4 know what you're talking about, like they're, you</p> <p>5 know, dictating to the truckers when they're going to</p> <p>6 come.</p> <p>7 MS. PRICE: This is not like a</p> <p>8 supermarket, though, that gets, you know, seven</p> <p>9 deliveries a day.</p> <p>10 VICE CHAIRMAN MAMARY: I was just</p> <p>11 asking, because --</p> <p>12 MR. SKRABLE: Just to follow up on that</p> <p>13 a little bit.</p> <p>14 The receiving area is 26-foot wide.</p> <p>15 So even though it technically doesn't</p> <p>16 meet the criteria for two loading docks, practically</p> <p>17 there's two loading docks.</p> <p>18 VICE CHAIRMAN MAMARY: And if I could</p> <p>19 read my writing, I'd have actually quite a few more</p> <p>20 questions.</p> <p>21 No, it's not -- I wrote big enough.</p> <p>22 No, that's it.</p> <p>23 Thank you --</p> <p>24 THE WITNESS: Thank you.</p> <p>25 VICE CHAIRMAN MAMARY: -- for your</p>

<p style="text-align: right;">57</p> <p>1 presentation.</p> <p>2 MR. ALESSI: Again, great presentation.</p> <p>3 Everybody is probably going to tell you that.</p> <p>4 Last meeting, I'm going to paraphrase,</p> <p>5 I think Ms. McGowan had said, basically less intense</p> <p>6 traffic than schools.</p> <p>7 Have we, the group, explored</p> <p>8 everything, like -- like how many acres is there to</p> <p>9 build on now?</p> <p>10 MR. MAGGIO: Five-and-a-half acres.</p> <p>11 MR. REGAN: A total of 5-and-a-half</p> <p>12 acres.</p> <p>13 MS. PRICE: I have to get the exact.</p> <p>14 MR. BEDIAN: Well, 2.4 is the wetlands,</p> <p>15 so it's less.</p> <p>16 THE WITNESS: Yeah, a lot of</p> <p>17 restrictions but --</p> <p>18 MS. PRICE: About four.</p> <p>19 MR. ALESSI: So four buildable acres.</p> <p>20 Now, according to the -- the deal that</p> <p>21 the borough made with the state, 12 units per acre,</p> <p>22 so that would be 48 units if my math is correct.</p> <p>23 MS. PRICE: Correct, affordable.</p> <p>24 MR. ALESSI: Thank you, Mr. CPA.</p> <p>25 The Pearson project is six units per</p>	<p style="text-align: right;">59</p> <p>1 you're proposing, that your client is proposing?</p> <p>2 THE WITNESS: In terms of intensity,</p> <p>3 yes.</p> <p>4 MR. ALESSI: Yes.</p> <p>5 THE WITNESS: Yes.</p> <p>6 MR. ALESSI: So it would be fair to say</p> <p>7 except leaving the property vacant, obviously,</p> <p>8 because there would be nothing there --</p> <p>9 THE WITNESS: Right.</p> <p>10 MR. ALESSI: -- so in your assessment,</p> <p>11 your client's facility would be less disturbance,</p> <p>12 less traffic flow, less density than any other</p> <p>13 proposed building that went up.</p> <p>14 THE WITNESS: Certainly residential,</p> <p>15 yes, that's correct.</p> <p>16 MR. ALESSI: Okay.</p> <p>17 VICE CHAIRMAN MAMARY: I want to just</p> <p>18 add something to that, something that the public is</p> <p>19 very concerned about was the trees and the cutting.</p> <p>20 And just adding to Mr. Alessi's point,</p> <p>21 if we were going to have to allow four houses to be</p> <p>22 built maybe with a rook and road or however it would</p> <p>23 be developed, wouldn't that be a lot more development</p> <p>24 or destruction of the trees, because it would</p> <p>25 actually be on almost the entire property with very</p>
<p style="text-align: right;">58</p> <p>1 building. So 48 divided by 6 would be 12 buildings,</p> <p>2 right?</p> <p>3 MS. PRICE: Eight, eight buildings.</p> <p>4 VICE CHAIRMAN MAMARY: I don't know. I</p> <p>5 would have to ask Charlie.</p> <p>6 MR. ALESSI: Eight buildings, so you</p> <p>7 have eight.</p> <p>8 Follow me, you have buildings, would</p> <p>9 eight townhouse buildings be more or less traffic</p> <p>10 than your proposed facility?</p> <p>11 THE WITNESS: I'm not the traffic</p> <p>12 expert, but I can tell you in conversations with our</p> <p>13 traffic person, I'm almost positive they would argue</p> <p>14 that it would be more intense.</p> <p>15 MS. PRICE: I think the question that</p> <p>16 you can answer is: If that type of development is</p> <p>17 done, in your opinion as a planner, would that pose</p> <p>18 more of a negative impact potential than this use</p> <p>19 with its traffic demand?</p> <p>20 THE WITNESS: Yeah, probably because of</p> <p>21 the trip generation that would be associated with</p> <p>22 that type of development.</p> <p>23 MR. ALESSI: And there would be more</p> <p>24 density, if I can use that word correctly, with the</p> <p>25 eight townhome buildings than the one facility that</p>	<p style="text-align: right;">60</p> <p>1 little trees being --</p> <p>2 MS. PRICE: That's where I took our --</p> <p>3 I took our engineer. That's what I had our engineer</p> <p>4 testify --</p> <p>5 VICE CHAIRMAN MAMARY: But I'm just</p> <p>6 saying that for purposes of an alternative to what is</p> <p>7 being proposed at least for that purpose.</p> <p>8 In your opinion, would that be</p> <p>9 something that besides the traffic, which would be</p> <p>10 under his, which is even more, you know, intense</p> <p>11 because of the number of buildings, we're just</p> <p>12 talking about four homes, one-acre homes, yards,</p> <p>13 lots, frontage --</p> <p>14 THE WITNESS: Pools.</p> <p>15 VICE CHAIRMAN MAMARY: -- pools, how</p> <p>16 much of the disturbance of the trees, which is a very</p> <p>17 big concern of the public here that we've heard would</p> <p>18 that be.</p> <p>19 THE WITNESS: So, again, I want to be</p> <p>20 careful. I'm not the site engineer. That's a</p> <p>21 question he can answer much better.</p> <p>22 But I would suggest and we were</p> <p>23 whispering back and forth, the homes, the garages and</p> <p>24 the pools, you know, it's a tough site to design no</p> <p>25 matter what and that's why, you know, I was lauding</p>

<p style="text-align: right;">61</p> <p>1 our site engineer.</p> <p>2 But when you take all those things into</p> <p>3 consideration, yes, there would be significant</p> <p>4 disturbance as opposed to the very compact design, if</p> <p>5 you will, that we have for our application.</p> <p>6 VICE CHAIRMAN MAMARY: Thank you.</p> <p>7 Sorry for holding you.</p> <p>8 MR. SZABO: Follow up on that,</p> <p>9 Mr. Chairman.</p> <p>10 MR. ALESSI: Notice my lips didn't move</p> <p>11 when you were talking.</p> <p>12 I wasn't going to ask it that way and I</p> <p>13 was going to go back to the density part with the</p> <p>14 eight townhomes that we're figuring the eight</p> <p>15 townhomes would be the maximum that could be at the</p> <p>16 end.</p> <p>17 And, again, barring no construction at</p> <p>18 all that your facility, your client's facility be the</p> <p>19 lower end.</p> <p>20 Everything in between is either plus or</p> <p>21 minus.</p> <p>22 So with the eight townhomes being the</p> <p>23 maximum, less disturbance with your facility with</p> <p>24 cutting down the trees and disturbing all the rest of</p> <p>25 the topography, I think, the word being used with the</p>	<p style="text-align: right;">63</p> <p>1 you.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 CHAIRMAN WEIDMANN: John, are you going</p> <p>4 to --</p> <p>5 MR. SZABO: No, I was just going to --</p> <p>6 Mr. Williams, if this were a single-family cul-de-sac</p> <p>7 kind of development which is typical in what the</p> <p>8 zoning would permit, there are no buffer restrictions</p> <p>9 with the exception of the wetlands, correct?</p> <p>10 THE WITNESS: That's correct.</p> <p>11 MR. SZABO: And there are no</p> <p>12 restrictions on tree removal per se?</p> <p>13 THE WITNESS: That's correct, yup.</p> <p>14 MR. SZABO: Would it be accurate to say</p> <p>15 that the board or the borough would have more control</p> <p>16 over how the site gets developed given the</p> <p>17 sensitivities in this type of a situation than a</p> <p>18 single-family subdivision?</p> <p>19 THE WITNESS: Yes, and I spoke about</p> <p>20 Mr. McElwee's character, but on the business side, I</p> <p>21 think the applicant realizes that the board does have</p> <p>22 more control in this development scenario and that</p> <p>23 hence part of the reason for being so open to working</p> <p>24 with the board and community.</p> <p>25 MR. SZABO: Thank you.</p>
<p style="text-align: right;">62</p> <p>1 land and such and then plus the water running off,</p> <p>2 one person had said the chemicals, I'm sure with the</p> <p>3 lawn chemicals, with a high-density property like the</p> <p>4 project on Central Avenue, which I think is eight</p> <p>5 buildings, you have it on the map there.</p> <p>6 So I just want to get clearer on my</p> <p>7 side before Nick interrupts me again that your</p> <p>8 feeling is that your facility, your client's facility</p> <p>9 is the perfect for less disturbance, less intense</p> <p>10 traffic than anything else, again, barring no</p> <p>11 construction at all, anything else that could go on</p> <p>12 that piece of property.</p> <p>13 THE WITNESS: Yes.</p> <p>14 And, again, reemphasizing the site</p> <p>15 engineer's attention to all of those details making</p> <p>16 it his and the teams' focus to be very sensitive to</p> <p>17 those wetland areas and buffers and come up with a</p> <p>18 design that has the least amount of disturbance as</p> <p>19 opposed to what might occur if some of those other</p> <p>20 uses were permitted.</p> <p>21 MR. ALESSI: Okay.</p> <p>22 Do we have any more?</p> <p>23 VICE CHAIRMAN MAMARY: No, I think</p> <p>24 you're done.</p> <p>25 MR. ALESSI: I think I'm done, thank</p>	<p style="text-align: right;">64</p> <p>1 I'm good, Mr. Chairman.</p> <p>2 MR. ALESSI: That was my last question.</p> <p>3 Thank you.</p> <p>4 CHAIRMAN WEIDMANN: David?</p> <p>5 MR. KEIL: In your recap of the</p> <p>6 variances you mentioned on building height, but the</p> <p>7 number of stories, three stories, and you said that</p> <p>8 that would -- you needed the third story in order to</p> <p>9 accommodate certain amenities that the guests would</p> <p>10 be privy to.</p> <p>11 If this facility was a two-story</p> <p>12 facility, what sort of amenities would need to be</p> <p>13 eliminated and has CSH ever built a facility with</p> <p>14 only two stories in your experience.</p> <p>15 THE WITNESS: I don't know the answer</p> <p>16 to the last part of the question, whether they've</p> <p>17 built -- they've ever built facilities with two</p> <p>18 stories.</p> <p>19 When I spoke about the third floor</p> <p>20 being important for this use, again, we meet the</p> <p>21 standard in terms of feet, but stories we are a</p> <p>22 half-story higher. It just makes for the</p> <p>23 functionality of this particular building work much</p> <p>24 better given what's being proposed for the site.</p> <p>25 So the architect went through each</p>

<p style="text-align: right;">65</p> <p>1 floor and explained what would be on each level. 2 That third floor makes this work for the intended 3 tenants. 4 MS. PRICE: And I can say that if 5 you're looking at a two-story, it's a much bigger 6 footprint, because everything goes on two stories 7 rather than on the three. 8 So it's not a question of eliminating 9 the services and the amenities. It's just that the 10 building gets shaped differently and larger 11 footprint. 12 MR. KEIL: Have you had an experience 13 with CSH with a two-story facility? 14 MS. PRICE: No. 15 THE WITNESS: And I apologize for 16 missing it in recapping what the site engineer spoke 17 about and what was testified by our site engineer, 18 that was a big part of the selection of the third 19 story is, again, minimizing disturbance by going up 20 as opposed to going outside. 21 I should have mentioned that when I 22 spoke about his testimony. 23 MR. KEIL: Thanks for the 24 clarification. 25 That's all.</p>	<p style="text-align: right;">67</p> <p>1 willingness and ability to improve the site plan 2 application and respond to the concerns. 3 So that any detriments that might have 4 existed have now been -- 5 MR. BEDIAN: Like what? 6 Can you give us examples of the 7 detriments? 8 THE WITNESS: Sure. 9 One of them was the side yard setback. 10 So we increased the setback to give more space, 11 buffering and screening to provide a greater barrier 12 between our property as it's developed and adjacent 13 properties. 14 And then, of course, the widening of 15 Old Tappan Road as well. 16 MR. BEDIAN: Okay. 17 No more questions. 18 THE WITNESS: Thank you. 19 CHAIRMAN WEIDMANN: Any questions? 20 MR. ELLER: No, I'm all set. 21 CHAIRMAN WEIDMANN: Anyone else? 22 You have -- 23 MR. REGAN: I have one question. 24 CHAIRMAN WEIDMANN: Go ahead. 25 MR. REGAN: Thank you for your analysis</p>
<p style="text-align: right;">66</p> <p>1 MS. HAVERILLA: I'm good. 2 MS. PRICE: You're good? 3 MS. HAVERILLA: Yes, thank you. 4 MR. ELLER: So am I. 5 MR. BEDIAN: Yes, I have a question. 6 Good presentation. 7 THE WITNESS: Thank you. 8 MR. BEDIAN: You said in the D-1 9 variance, you have to cite the affirmatives and the 10 negatives. 11 I heard about a lot of the affirmatives 12 and the benefits and, you know, you stated, but I 13 didn't hear much about the negatives. And you always 14 said they overcome or, you know, the beneficial use 15 outweighs the negatives. 16 Can you cite, like, a few negatives 17 that this site will generate? 18 THE WITNESS: So it's kind of the same, 19 similar question than what your board planner asked 20 and I tried to answer saying in my opinion there is 21 certainly no substantial detriments. And that word 22 "substantial" comes directly from the Municipal Land 23 Use Law. 24 I would go a bit further and say there 25 really are no detriments based on this applicant's</p>	<p style="text-align: right;">68</p> <p>1 of the <u>Sica v. Township of Wall Board of Adjustment</u> 2 and the four-prong test. The third step in the 3 four-prong test relates to the imposition -- 4 THE COURT REPORTER: I'm sorry, can you 5 speak up, I can't hear you, Mr. Regan? 6 MR. REGAN: Sure. 7 The third standard or third requirement 8 of the four-prong test relates to the imposition of 9 reasonable conditions. 10 And this is, perhaps, more for 11 Ms. Price than for you. 12 The concern that I raised in a prior 13 meeting references the fact that Old Tappan has a 14 volunteer ambulance corps and my opinion the need for 15 a contract or an agreement with an ambulance service 16 to address healthcare needs at the facility should 17 patients need to be transported to a hospital or 18 another location, I'd like to include that as a 19 condition and, hopefully, the applicant will agree to 20 that. 21 I would like to also see a proposed 22 contract or agreement with a provider so that can be 23 addressed in any approving resolution. 24 MS. PRICE: Okay. 25 MR. ELLER: Can I just --</p>

<p style="text-align: right;">69</p> <p>1 CHAIRMAN WEIDMANN: I think this was --</p> <p>2 MR. REGAN: It was, I think.</p> <p>3 MR. ELLER: Can I add to that too? I</p> <p>4 think when we spoke about that, we also included the</p> <p>5 ability for in the event that the private contractor</p> <p>6 or the ambulance service wasn't there, the town would</p> <p>7 be able to bill them if we were to send out -- send</p> <p>8 the municipal ambulance squad.</p> <p>9 MR. REGAN: Well, that's appropriate,</p> <p>10 we can add that also.</p> <p>11 MR. ELLER: Thank you.</p> <p>12 MR. REGAN: But it's been my experience</p> <p>13 with these type of uses and when a board has the</p> <p>14 review of the application, we pose it as a condition</p> <p>15 and I actually like to have the proposed agreement</p> <p>16 marked as an exhibit so it can be referenced in a</p> <p>17 resolution.</p> <p>18 MR. SKRABLE: Bob, when we did the</p> <p>19 memory care on Central Avenue, wasn't the Borough the</p> <p>20 third in line, that there was a private provider and</p> <p>21 then there was Plan B, which I can't remember and</p> <p>22 then the Borough was Plan C?</p> <p>23 So we might want to look at that.</p> <p>24 MR. REGAN: Yeah, that was the Artis</p> <p>25 application?</p>	<p style="text-align: right;">71</p> <p>1 was just a stipulation.</p> <p>2 MR. REGAN: You just had a condition?</p> <p>3 MS. PRICE: But if you have a form that</p> <p>4 you used --</p> <p>5 MR. REGAN: Yeah, I think I had it from</p> <p>6 --</p> <p>7 MS. PRICE: -- in another one, just send</p> <p>8 it to me.</p> <p>9 MR. REGAN: I'll look and see what I</p> <p>10 have in the file, but I really would like to see that</p> <p>11 addressed.</p> <p>12 CHAIRMAN WEIDMANN: Also, did you see</p> <p>13 the letter for the Old Tappan Ambulance Corps?</p> <p>14 MR. REGAN: She hasn't seen that yet.</p> <p>15 MS. PRICE: No.</p> <p>16 MR. REGAN: Yeah, the representative of</p> <p>17 the ambulance corps spoke to me earlier.</p> <p>18 And I suggested that when the meeting</p> <p>19 is open to the public, that he read that</p> <p>20 correspondence into the record.</p> <p>21 CHAIRMAN WEIDMANN: Okay.</p> <p>22 MS. PRICE: I don't have it.</p> <p>23 CHAIRMAN WEIDMANN: Do you want a copy</p> <p>24 of it?</p> <p>25 MS. PRICE: That would be great.</p>
<p style="text-align: right;">70</p> <p>1 MR. SKRABLE: Yes.</p> <p>2 I want to see what that one --</p> <p>3 MR. REGAN: I think we may have had</p> <p>4 that as a condition as well. I don't remember</p> <p>5 whether there were three levels.</p> <p>6 MR. SKRABLE: I believe there was.</p> <p>7 MR. REGAN: But I would like to see at</p> <p>8 the next hearing if we can have an exhibit be marked</p> <p>9 into evidence.</p> <p>10 I mean, I've had that in other</p> <p>11 applications elsewhere in Bergen County and I think</p> <p>12 it provides, I think, the municipality with some</p> <p>13 security in terms of having a private service to</p> <p>14 address.</p> <p>15 MS. PRICE: So, Bob, do you have a form</p> <p>16 agreement that you --</p> <p>17 MR. REGAN: I don't have a form.</p> <p>18 I can copy what was marked into</p> <p>19 evidence at another meeting.</p> <p>20 MS. PRICE: Okay. So --</p> <p>21 MR. REGAN: You might even have it with</p> <p>22 Artis.</p> <p>23 Were you the attorney on Artis?</p> <p>24 MS. PRICE: Yes.</p> <p>25 But, you know, we didn't do a form. It</p>	<p style="text-align: right;">72</p> <p>1 THE WITNESS: Thank you.</p> <p>2 MS. PRICE: Okay. Well, it's basically</p> <p>3 what we just talked about.</p> <p>4 MR. REGAN: I believe when the meeting</p> <p>5 is open to the public, the representative from the</p> <p>6 ambulance corps will go over this as an exhibit and</p> <p>7 it will be marked in at that time.</p> <p>8 MS. PRICE: Okay.</p> <p>9 CHAIRMAN WEIDMANN: All right.</p> <p>10 One other question as far as the height</p> <p>11 of the building and number of stories to the</p> <p>12 building, you know, your plan was for 100 beds,</p> <p>13 correct?</p> <p>14 Is what you want on this property?</p> <p>15 MS. PRICE: Right, that's our</p> <p>16 Certificate of Need, 100 beds, 10 --</p> <p>17 CHAIRMAN WEIDMANN: And if the building</p> <p>18 --</p> <p>19 MS. PRICE: -- credit.</p> <p>20 CHAIRMAN WEIDMANN: -- isn't three</p> <p>21 stories, you're not going to get 100 beds.</p> <p>22 MS. PRICE: Not in the present</p> <p>23 configuration --</p> <p>24 CHAIRMAN WEIDMANN: Right.</p> <p>25 MS. PRICE: -- correct.</p>

<p style="text-align: right;">73</p> <p>1 CHAIRMAN WEIDMANN: Okay.</p> <p>2 So, you know, 2-and-a-half stories is</p> <p>3 not going to work, there's no such thing, you know,</p> <p>4 half a story.</p> <p>5 So no matter what, when this</p> <p>6 application came before us, you know, it's a</p> <p>7 three-story building.</p> <p>8 MS. PRICE: That's why we presented it</p> <p>9 that way and asking for the relief and we've kept it</p> <p>10 under the 35 feet, which is the --</p> <p>11 MR. REGAN: I think that's more</p> <p>12 critical than the actual number of stories, the</p> <p>13 height.</p> <p>14 MS. PRICE: Right, we're compliant with</p> <p>15 the measurement, but not the story count.</p> <p>16 CHAIRMAN WEIDMANN: I didn't like the</p> <p>17 original answer just so everybody knows, it's got to</p> <p>18 be three stories, okay, and one other thing as far as</p> <p>19 trees goes and everything on this, correct me if I'm</p> <p>20 wrong, but this piece of property is going to be</p> <p>21 clearcut?</p> <p>22 In other words, you're not going to</p> <p>23 have any trees on this property when you go into</p> <p>24 building?</p> <p>25 MS. PRICE: No.</p>	<p style="text-align: right;">75</p> <p>1 MR. REGAN: I think he testified that</p> <p>2 165 trees will be removed.</p> <p>3 MS. PRICE: The entire site is not</p> <p>4 being clearcut, though.</p> <p>5 CHAIRMAN WEIDMANN: Well, it's going to</p> <p>6 look that way when you do that.</p> <p>7 MR. ELLER: From the center out it's</p> <p>8 going to look that way.</p> <p>9 CHAIRMAN WEIDMANN: Pardon me?</p> <p>10 MR. ELLER: From the center out it's</p> <p>11 going to look that way whenever you get to the edge</p> <p>12 of it.</p> <p>13 CHAIRMAN WEIDMANN: Right.</p> <p>14 MR. ELLER: Wherever the parking lot is</p> <p>15 going to stop.</p> <p>16 CHAIRMAN WEIDMANN: And I think a lot</p> <p>17 of people in the public don't understand that. If</p> <p>18 you just look up the road a little bit where the</p> <p>19 construction is going on, count the number of trees</p> <p>20 left on the property. There are none.</p> <p>21 This piece of property is going to look</p> <p>22 the same way, okay, just so you understand, you know,</p> <p>23 you know, what's going on here.</p> <p>24 Okay. Does the board have any other</p> <p>25 questions?</p>
<p style="text-align: right;">74</p> <p>1 CHAIRMAN WEIDMANN: How many trees are</p> <p>2 you going to have left on this property?</p> <p>3 MS. PRICE: No, it won't be clearcut,</p> <p>4 because trees --</p> <p>5 CHAIRMAN WEIDMANN: It will be</p> <p>6 clearcut.</p> <p>7 Is that correct?</p> <p>8 MS. PRICE: No.</p> <p>9 CHAIRMAN WEIDMANN: What's not -- I</p> <p>10 haven't seen a map showing, okay, this tree is going</p> <p>11 to be left here.</p> <p>12 MS. PRICE: No, that's Jim Langenstein,</p> <p>13 our landscape architect testified to that and that he</p> <p>14 had been out there and marked trees and his</p> <p>15 landscaping plan confirms that.</p> <p>16 CHAIRMAN WEIDMANN: There's a couple of</p> <p>17 trees on the side of the property. You know, there's</p> <p>18 no -- the internal piece of the property, there's no</p> <p>19 trees left.</p> <p>20 MS. PRICE: Where the building is going</p> <p>21 there won't be any trees, where the parking area --</p> <p>22 where the parking area is.</p> <p>23 There undoubtedly will be an area where</p> <p>24 there will be substantial clearing, yes, but the</p> <p>25 entire site --</p>	<p style="text-align: right;">76</p> <p>1 (No response.)</p> <p>2 CHAIRMAN WEIDMANN: None?</p> <p>3 (No response.)</p> <p>4 CHAIRMAN WEIDMANN: Seeing none, okay.</p> <p>5 Going to make a motion for we're going</p> <p>6 to open the meeting to the public.</p> <p>7 MR. ELLER: So moved.</p> <p>8 VICE CHAIRMAN MAMARY: Second.</p> <p>9 CHAIRMAN WEIDMANN: But the questions</p> <p>10 can only be directed at the planner. It's going to</p> <p>11 be -- and these are questions to the planner, not</p> <p>12 statements to the planner.</p> <p>13 Everybody is going to be limited to one</p> <p>14 question. Okay, everybody is going to be limited to</p> <p>15 one question.</p> <p>16 After we have a first go-around, if you</p> <p>17 have any other -- a second question, you can raise</p> <p>18 your hand again.</p> <p>19 Okay, the meeting is open to the</p> <p>20 public.</p> <p>21 Yes, sir.</p> <p>22 MR. STEINHAGEN: Good evening,</p> <p>23 Chairman, Members of the Board. Daniel Steinhagen on</p> <p>24 behalf -- from Beattie Padovano on behalf of Lakeview</p> <p>25 Association and Angeline Sheridan.</p>

<p style="text-align: right;">77</p> <p>1 I don't have any questions tonight and</p> <p>2 I'm going to make Mr. Skrable pretty happy. We have</p> <p>3 a tentative agreement between Lakeview and the</p> <p>4 applicant about the drainage subject to reducing it</p> <p>5 to a formal document, which would be made a condition</p> <p>6 of approval.</p> <p>7 We are hopeful to have that done by the</p> <p>8 next meeting.</p> <p>9 Ms. Price and I spoke prior to the</p> <p>10 commencement of tonight's meeting. Ms. Price and I</p> <p>11 agree that I would defer any questions that I have</p> <p>12 for Mr. Williams to allow that to happen.</p> <p>13 So my understanding is, and I've asked</p> <p>14 Ms. Price to confirm it on the record, that</p> <p>15 Mr. Williams will be back for questions for me to the</p> <p>16 extent necessary next month.</p> <p>17 MR. REGAN: And it would be great if we</p> <p>18 can have that agreement sooner rather than later.</p> <p>19 MS. PRICE: Yes.</p> <p>20 MR. STEINHAGEN: Yes, before the next</p> <p>21 meeting.</p> <p>22 MR. REGAN: Yeah, the next meeting is</p> <p>23 December 14th.</p> <p>24 MS. PRICE: Correct.</p> <p>25 MR. REGAN: And it's my hope that maybe</p>	<p style="text-align: right;">79</p> <p>1 MR. STEINHAGEN: Thank you.</p> <p>2 CHAIRMAN WEIDMANN: Anyone else from</p> <p>3 the public wish to be heard?</p> <p>4 Yes, ma'am in the back.</p> <p>5 MS. COSTA: Hello. Francesca Costa</p> <p>6 from Closter and you'll see me a lot tonight.</p> <p>7 Sorry, I wrote a lot of questions.</p> <p>8 THE WITNESS: It's all right.</p> <p>9 MS. COSTA: Let's see which one to</p> <p>10 start with.</p> <p>11 Here's one, so going off of both</p> <p>12 testimony and what you have spoken about with chair</p> <p>13 people, is that title accurate.</p> <p>14 MS. HAVERILLA: Board members.</p> <p>15 MS. COSTA: Board members, that's it,</p> <p>16 thank you.</p> <p>17 So we did compare, you know, eight</p> <p>18 developments on this property and your proposed</p> <p>19 design, but what about, like, is your facility less</p> <p>20 damaging than a nature preserve or cemetery or</p> <p>21 historic site on this property? Is that being</p> <p>22 considered when, you know, measuring how damaging</p> <p>23 things are?</p> <p>24 THE WITNESS: So I think the intent of</p> <p>25 the questions was to compare what we're proposing to</p>
<p style="text-align: right;">78</p> <p>1 the application may conclude by then.</p> <p>2 MS. PRICE: My hope too.</p> <p>3 So we're going to -- I indicated to Dan</p> <p>4 that if we did not have a firm agreement, I would</p> <p>5 bring George back for questioning, but, hopefully,</p> <p>6 we'll have everything done, in which case that won't</p> <p>7 be necessary.</p> <p>8 MR. STEINHAGEN: Well, to be clear, I'm</p> <p>9 not -- I can't, for obvious reasons, waive any rights</p> <p>10 as it relates to Ms. Sheridan.</p> <p>11 MS. PRICE: But you're going to get</p> <p>12 back to me on that?</p> <p>13 MR. STEINHAGEN: Yes, but she needs to</p> <p>14 have the opportunity to ask those questions.</p> <p>15 MS. PRICE: Understood.</p> <p>16 MR. STEINHAGEN: As long as the board</p> <p>17 is acceptable with that and --</p> <p>18 CHAIRMAN WEIDMANN: I believe the board</p> <p>19 is acceptable with that.</p> <p>20 MR. STEINHAGEN: And just, I don't want</p> <p>21 to put what we're talking about on the record at this</p> <p>22 point, but Ms. Price and I will -- Ms. Price and I</p> <p>23 will read Mr. Regan in some time in the next couple</p> <p>24 of days.</p> <p>25 MR. REGAN: Okay.</p>	<p style="text-align: right;">80</p> <p>1 what uses are permitted on the site and that's how</p> <p>2 they got to the townhouse scenario.</p> <p>3 So, yeah, or residential development,</p> <p>4 excuse me.</p> <p>5 MS. COSTA: Can I ask a follow-up?</p> <p>6 CHAIRMAN WEIDMANN: Go ahead.</p> <p>7 MS. COSTA: So, going off of that,</p> <p>8 would a, like, nature preserve or something be</p> <p>9 allowed on this residential zone?</p> <p>10 MS. PRICE: I think a better question</p> <p>11 is, has he reviewed anything to come to a conclusion</p> <p>12 about that?</p> <p>13 MS. COSTA: I figured he's done a lot</p> <p>14 of studying.</p> <p>15 THE WITNESS: So that answer would be,</p> <p>16 no, I did not, as part of my analysis, look at those</p> <p>17 type of uses.</p> <p>18 MS. COSTA: Okay.</p> <p>19 Thank you.</p> <p>20 THE WITNESS: Thank you.</p> <p>21 CHAIRMAN WEIDMANN: Yes, sir.</p> <p>22 MR. ARDITO: Peter Ardito, 57 Glen</p> <p>23 Avenue East, Harrington Park.</p> <p>24 Just I am a member of my own planning</p> <p>25 board in Harrington Park, so I'm aware of some of the</p>

<p style="text-align: right;">81</p> <p>1 concerns.</p> <p>2 Just when you spoke to the court cases</p> <p>3 that you mentioned, I'm just curious that this is a</p> <p>4 very particular piece of property, do any of those</p> <p>5 other court cases, do you know, are they already --</p> <p>6 were they already developed, the items that you cited</p> <p>7 as reasons to go forward with this? Were those</p> <p>8 pieces of property when they were developed, were</p> <p>9 they developed from already developed land or was it</p> <p>10 virgin land like this?</p> <p>11 How is that relevant to a planning</p> <p>12 board to say that the court said it's okay to do this</p> <p>13 based on a different topography possibly?</p> <p>14 Can you make that a little clearer for</p> <p>15 us?</p> <p>16 THE WITNESS: Sure.</p> <p>17 I'll certainly try.</p> <p>18 So, in my opinion your question has,</p> <p>19 perhaps, two parts, right?</p> <p>20 One is, do any of those court cases</p> <p>21 deal with vacant property? And the answer is there</p> <p>22 are a variety of court cases that were mentioned.</p> <p>23 Some of them are -- I think all of them are for</p> <p>24 developed properties.</p> <p>25 MR. ARDITO: Which is different from</p>	<p style="text-align: right;">83</p> <p>1 And you've also stated that you read</p> <p>2 the Master Plan as has been furnished by the planning</p> <p>3 board.</p> <p>4 THE WITNESS: Correct.</p> <p>5 MR. ARDITO: The Master Plan goes onto</p> <p>6 to say specifically about this piece of property,</p> <p>7 that if it was to become available, it should be</p> <p>8 preserved as is especially because of its location in</p> <p>9 town.</p> <p>10 So when you speak of inherent benefits</p> <p>11 and you say that you don't see any negative benefits</p> <p>12 to the development of this piece of property, I would</p> <p>13 ask you by reading the Master Plan that you said you</p> <p>14 have and reading those specifics and it specifically</p> <p>15 states about 244, that would it not be equally</p> <p>16 beneficial for the community for this property to, in</p> <p>17 fact, adhere to the request in the Master Plan to</p> <p>18 keep it preserved and make it into a park in the</p> <p>19 central area of town, also preserving the historic</p> <p>20 house because of the value that that is, because you</p> <p>21 said there was no inherent value at all. One might</p> <p>22 argue -- I'm asking if you would -- could argue that</p> <p>23 maybe that is an inherent value.</p> <p>24 THE WITNESS: What's the inherent</p> <p>25 value.</p>
<p style="text-align: right;">82</p> <p>1 this particular piece of land?</p> <p>2 THE WITNESS: Correct.</p> <p>3 What is the significance of those court</p> <p>4 cases despite the different fact patterns, the reason</p> <p>5 in land use we refer to court cases and/or literature</p> <p>6 is those courts give guidance to boards like this</p> <p>7 one, boards of adjustment or planning boards in your</p> <p>8 case, as you're aware, and even though the fact</p> <p>9 patterns are different, the concepts are the same.</p> <p>10 So when I talk about being subsumed,</p> <p>11 whether the property is vacant or developed, the</p> <p>12 concept is still the same. The fact that the use</p> <p>13 that's being proposed is not among the permitted uses</p> <p>14 and, therefore, the bulk standards don't apply, that</p> <p>15 concept would be relevant notwithstanding the fact</p> <p>16 that it's neither vacant or developed.</p> <p>17 MR. ARDITO: Can I ask a follow-up</p> <p>18 question, please?</p> <p>19 CHAIRMAN WEIDMANN: Go ahead.</p> <p>20 MR. ARDITO: You said you have walked</p> <p>21 the property, that's correct?</p> <p>22 THE WITNESS: Yes, well, actually I</p> <p>23 said I and my staff have visited the site, but, yes,</p> <p>24 we have walked.</p> <p>25 MR. ARDITO: Okay.</p>	<p style="text-align: right;">84</p> <p>1 MR. ARDITO: Of keeping the property</p> <p>2 for public use and keeping the historic house where</p> <p>3 it is.</p> <p>4 THE WITNESS: So just for the record, I</p> <p>5 did not say that there would be no inherent value to</p> <p>6 keep it the way it is.</p> <p>7 MR. ARDITO: Okay. I believe you did</p> <p>8 say there was no inherent value.</p> <p>9 THE WITNESS: I definitely didn't say</p> <p>10 that.</p> <p>11 MR. ARDITO: I apologize.</p> <p>12 THE WITNESS: But in terms of the</p> <p>13 Master Plan -- so one option is obviously to leave it</p> <p>14 as it is.</p> <p>15 The application before this board,</p> <p>16 however, is to develop it for the purposes that I've</p> <p>17 described as an assisted-living development and the</p> <p>18 board has to review each application on their own</p> <p>19 merit and they will base their decisions on the</p> <p>20 Municipal Land Use Law, on the preponderance of</p> <p>21 evidence as submitted by our team and/or other</p> <p>22 experts and they'll have to weigh and vote it up or</p> <p>23 down, right.</p> <p>24 In terms of the Master Plan, I provided</p> <p>25 page numbers in my testimony. I'm not sure where you</p>

<p style="text-align: right;">85</p> <p>1 read that in the Master Plan.</p> <p>2 MR. ARDITO: I have the information. I</p> <p>3 will be happy to furnish it to you.</p> <p>4 THE WITNESS: I would just -- I would</p> <p>5 just submit that when I look at a Master Plan</p> <p>6 notwithstanding your point about the specific</p> <p>7 reference, which I did not see by the way.</p> <p>8 MR. ARDITO: I can give you a page</p> <p>9 number and paragraph.</p> <p>10 THE WITNESS: I can trust -- I'm just</p> <p>11 saying, I didn't catch it. That I look at the plan</p> <p>12 in its totality. That's why I shared the goals and</p> <p>13 objectives I did. All of which suggest that, two</p> <p>14 things: One, there is support in the local Master</p> <p>15 Plan for this type of development; and, two, very</p> <p>16 generally there is local recognition that more has to</p> <p>17 be done in support of that population cohort, that</p> <p>18 Silver Tsunami that was mentioned and, again, it's</p> <p>19 not uncommon to happenings all across, certainly, the</p> <p>20 state.</p> <p>21 MR. ARDITO: May I beg you for one more</p> <p>22 very relevant follow-up question, please?</p> <p>23 CHAIRMAN WEIDMANN: (Nods</p> <p>24 affirmatively.)</p> <p>25 MR. ARDITO: Thank you very much.</p>	<p style="text-align: right;">87</p> <p>1 MR. ARDITO: I apologize on their</p> <p>2 behalf.</p> <p>3 (Laughter.)</p> <p>4 CHAIRMAN WEIDMANN: No, but we're not</p> <p>5 dealing with -- just so the public -- we're not</p> <p>6 dealing with hypotheticals here. We're dealing with</p> <p>7 this one application.</p> <p>8 MR. ARDITO: Well, a hypothetical was</p> <p>9 brought up about in this property, two of your board</p> <p>10 members said that if they put other types of houses</p> <p>11 on that, those are both hypotheticals.</p> <p>12 MR. REGAN: I was looking at permitted</p> <p>13 uses would be allowed on the property.</p> <p>14 MR. ARDITO: Well, this is permitted</p> <p>15 usage on another piece of property --</p> <p>16 CHAIRMAN WEIDMANN: No, listen.</p> <p>17 MR. ARDITO: -- that you approved --</p> <p>18 MR. REGAN: We can't talk about another</p> <p>19 piece of property. We're talking about this property</p> <p>20 and this property only.</p> <p>21 MR. ARDITO: I'm merely asking him his</p> <p>22 professional opinion if that was relevant.</p> <p>23 THE WITNESS: One way to respond would</p> <p>24 be simply to say that and it's part of the court case</p> <p>25 law, et cetera, that it's the application that's</p>
<p style="text-align: right;">86</p> <p>1 And that is, as a planner looking at</p> <p>2 the totality of what's beneficial to the town, if</p> <p>3 there was, in fact, another piece of property in town</p> <p>4 that fit all of the requirements that they are</p> <p>5 looking for except for a possibility of a few, very</p> <p>6 few less rooms, could be the three stories, could be</p> <p>7 everything they're requiring and that property is</p> <p>8 already zoned commercially and it would not require</p> <p>9 the wholesale removal of 165 trees, I believe is what</p> <p>10 you said, 165 trees that, in fact, that piece of</p> <p>11 property came before this planning board in the past</p> <p>12 and was approved for a completely different client</p> <p>13 but for the same exact use and that client pulled out</p> <p>14 because they couldn't do it anymore, would as a</p> <p>15 planner who has to look at the overall view of not</p> <p>16 just what's beneficial to an applicant, but also</p> <p>17 beneficial to the town, would you not say that if</p> <p>18 there was another location in the town that is</p> <p>19 clearly more suited for such a piece of property,</p> <p>20 wouldn't that not be an equal benefit to the town?</p> <p>21 MR. REGAN: That's not what's before</p> <p>22 the board.</p> <p>23 (Applause.)</p> <p>24 CHAIRMAN WEIDMANN: I've asked in the</p> <p>25 past that we refrain from what just happened.</p>	<p style="text-align: right;">88</p> <p>1 before the board and now under the recent court cases</p> <p>2 there's no obligation for an applicant to say there</p> <p>3 are other suitable sites in the area. It's about</p> <p>4 their approach to a particular piece, which in this</p> <p>5 case is 244 Old Tappan.</p> <p>6 So, I understand your question, but I</p> <p>7 would just offer from a land use perspective, that's</p> <p>8 not the obligation.</p> <p>9 MR. ARDITO: Okay. Thank you very</p> <p>10 much.</p> <p>11 MS. PRICE: Wait, wait, wait, I have a</p> <p>12 question.</p> <p>13 MR. ARDITO: Okay.</p> <p>14 MS. PRICE: So, you sit on the planning</p> <p>15 board, correct, in --</p> <p>16 MR. ARDITO: I do.</p> <p>17 MS. PRICE: -- Harrington Park?</p> <p>18 So, in your role as a planning board</p> <p>19 member, do you look at speculative developments or do</p> <p>20 you look at an application that's before you and rule</p> <p>21 on it?</p> <p>22 MR. ARDITO: My role on the planning</p> <p>23 board is there because I am on the environmental</p> <p>24 commission, so I look at everything environmentally.</p> <p>25 MS. PRICE: That's not my question.</p>

<p style="text-align: right;">89</p> <p>1 MR. ARDITO: This plot is going to cut 2 down 165 trees, so I would be looking at that. 3 MS. PRICE: Mr. Ardito, that's not my 4 question. 5 MR. ARDITO: Okay. 6 MS. PRICE: Do you look at an 7 application that's before you or do you look at 8 speculative developments that are not before you in 9 your role as a planning board member? 10 MR. ARDITO: In my role as a member for 11 the environmental commission -- 12 MS. PRICE: No, that's not my question. 13 MR. ARDITO: I'm giving you my answer. 14 As my role, specifically as a member of the 15 environmental commission, when Allegro came before 16 us, I requested specific things and specific actions 17 as a member of the environmental commission because I 18 am there by state law only because if a town has an 19 environmental commissioner, they have a member from 20 the environmental commission on the planning board. 21 So, therefore, it's my responsibility 22 as that member to view the environmental aspects. 23 MS. PRICE: I agree with you 24 100 percent, but -- 25 MR. ARDITO: So, if I have approved on</p>	<p style="text-align: right;">91</p> <p>1 question out. 2 MR. ARDITO: Oh, I'm sorry, I 3 apologize. 4 MS. PRICE: You referred to the 5 property being acquired specifically as noted in the 6 Master Plan? 7 MR. ARDITO: Correct. 8 MS. PRICE: Who would be acquiring the 9 property in connection with that reference? 10 MR. ARDITO: Okay. 11 The Master Plan says if it becomes 12 available, the town should acquire it and we have 13 brought up in other meetings for this, I brought up 14 that I have reached out to Tenaflly Nature Center and 15 I believe Closter Nature Center, both combined and 16 said they would assist, we well as Bergen SWAN who I 17 represent has -- we have a million dollars in a fund 18 that we have authority over and we have offered to 19 use that money to help pay for this, as well as the 20 town has Green Acres funds and other sources, so that 21 is who would buy it. 22 MS. PRICE: Has the town put any 23 acquisition out to the best of your personal 24 knowledge? 25 MR. ARDITO: To my personal knowledge,</p>
<p style="text-align: right;">90</p> <p>1 that planning board another piece of property in the 2 past for that and they were going to -- and that 3 property is properly zoned already as opposed to 4 another piece of property which is not properly zoned 5 and they're going to cut down 165 trees, yes, I would 6 bring that up. 7 MS. PRICE: So, you think -- 8 MR. ARDITO: And if you stop me from 9 that, then you would stop me from that. 10 MS. PRICE: You think that you're 11 allowed to make all those ifs? 12 MR. ARDITO: No different than the 13 questions, the two questions that were asked prior to 14 this from two members of the board right here. 15 MS. PRICE: And in your reference to 16 acquisition of the property, this property to be in 17 conformance with the Master Plan, who would be 18 acquiring this property, this 5-and-a-half acres with 19 -- 20 MR. ARDITO: If the applicant was 21 refused? 22 MS. PRICE: You referred to a Master 23 Plan section -- 24 MR. ARDITO: The Master Plan -- 25 MS. PRICE: Wait, let me get my</p>	<p style="text-align: right;">92</p> <p>1 people from the town have asked the mayor and council 2 and no response was -- 3 MS. PRICE: I'm only asking your 4 personal knowledge. 5 MR. ARDITO: To my personal knowledge, 6 no. 7 MS. PRICE: Okay. Thank you. 8 FEMALE AUDIENCE MEMBER: He's not on 9 trial. 10 MR. SKRABLE: Bob, can I ask you a 11 question? 12 MR. REGAN: Sure. 13 MR. SKRABLE: And I honestly don't know 14 the answer, so I'm not being cute. 15 MR. REGAN: That's okay. 16 MR. SKRABLE: Is the Borough allowed to 17 require as part of the application for any 18 non-single-family development a no-build analysis? 19 MR. REGAN: No. 20 MR. SKRABLE: Thank you. 21 MR. REGAN: Absolutely not. 22 FEMALE AUDIENCE MEMBERS: Why not? 23 MALE AUDIENCE MEMBER: Yeah, why not? 24 MR. SKRABLE: I thought that might be 25 the answer, but thank you.</p>

<p style="text-align: right;">93</p> <p>1 FEMALE AUDIENCE MEMBER: Why not?</p> <p>2 CHAIRMAN WEIDMANN: Yes, any other</p> <p>3 questions?</p> <p>4 MR. ALESSI: Before we go forward --</p> <p>5 CHAIRMAN WEIDMANN: What?</p> <p>6 MR. ALESSI: Before we go forward, I</p> <p>7 went back and researched my notes and I believe it</p> <p>8 was either February or March Mr. McElwee did the --</p> <p>9 your presentation and said basically it would be two</p> <p>10 calls per month ambulance-wise and Bill Hal</p> <p>11 (phonetic), everybody knows Bill Hal, did his math</p> <p>12 and said it would be 104 calls a year and at that</p> <p>13 point we decided that it would be -- the private</p> <p>14 ambulance service would be the first tier, the county</p> <p>15 would be second tier and the town would be the third</p> <p>16 tier and as Mr. Eller said, the town would look into</p> <p>17 billing the facility for that call.</p> <p>18 And at that point in time, then we</p> <p>19 decided to increase the size of the elevator,</p> <p>20 remember, and have -- so that was what was discussed</p> <p>21 and agreed upon way back when.</p> <p>22 MR. REGAN: February or March.</p> <p>23 MR. ALESSI: February or March.</p> <p>24 So I hope that clarifies some -- I</p> <p>25 didn't get to read the letter. I didn't even know</p>	<p style="text-align: right;">95</p> <p>1 where there may be some vulnerable residents, 24/7</p> <p>2 type of employee shift turnaround, deliveries, food</p> <p>3 provisions, supplies, Amazon deliveries to residents,</p> <p>4 Mother's Day a lot of traffic in and out if it falls</p> <p>5 on a Sunday with a neighboring church service exit.</p> <p>6 CHAIRMAN WEIDMANN: We need a question.</p> <p>7 MR. REGAN: Question for the planner,</p> <p>8 please.</p> <p>9 MR. SPILKA: Widening the road.</p> <p>10 I'm just wondering if you can clarify</p> <p>11 what you mean by low-traffic impact as it relates to</p> <p>12 all days of the year rather than at nighttime or just</p> <p>13 as it concerns those residents themselves.</p> <p>14 MS. PRICE: Can I just -- Mr. Williams</p> <p>15 can answer the question, but I just want to be clear</p> <p>16 that he's not our traffic --</p> <p>17 MR. REGAN: Not the traffic --</p> <p>18 MS. PRICE: -- engineer and his</p> <p>19 reference was based upon the record that's been</p> <p>20 established.</p> <p>21 MR. REGAN: Right, he referred to the</p> <p>22 traffic expert's testimony.</p> <p>23 MS. PRICE: Right.</p> <p>24 MR. MAGGIO: And that was covered in</p> <p>25 the traffic engineer's report.</p>
<p style="text-align: right;">94</p> <p>1 about the letter.</p> <p>2 MR. SPILKA: Hi, my name is Terrence</p> <p>3 Spilka. I'm a resident here in Old Tappan.</p> <p>4 I just wanted to clarify something,</p> <p>5 Mr. Williams.</p> <p>6 THE COURT REPORTER: I'm sorry, spell</p> <p>7 your last name, sir.</p> <p>8 MR. SPILKA: S-P-I-L-K-A.</p> <p>9 THE COURT REPORTER: And your current</p> <p>10 home address?</p> <p>11 MR. SPILKA: 22 Deberg Drive.</p> <p>12 THE COURT REPORTER: Thank you.</p> <p>13 MR. SPILKA: With respect to</p> <p>14 Mr. Williams testimony on it being a low-impact</p> <p>15 traffic situation, I heard in the testimony just a</p> <p>16 lot of emphasis on the facility accommodating</p> <p>17 X number of beds and the type of -- type of</p> <p>18 environment, the type of building, the type of</p> <p>19 service being provided would, in fact, result in a</p> <p>20 low traffic as compared with a school or other types</p> <p>21 of facilities.</p> <p>22 I'm just trying to envision, though,</p> <p>23 the reality of what we live through each day and you</p> <p>24 have the residents, you have employees and in my</p> <p>25 opinion, it would be more or less given the situation</p>	<p style="text-align: right;">96</p> <p>1 MS. PRICE: Correct.</p> <p>2 THE WITNESS: So, what you just heard</p> <p>3 would have been my answer anyway, so I think --</p> <p>4 MR. SPILKA: I know you're not the</p> <p>5 traffic expert.</p> <p>6 THE WITNESS: Correct, but I relied on</p> <p>7 the testimony of the other experts to establish the</p> <p>8 predicate for my planning conclusions, in addition to</p> <p>9 my experience working with this applicant elsewhere</p> <p>10 and that's how I arrived at my opinion about the</p> <p>11 low-traffic generation.</p> <p>12 There are some planning literature also</p> <p>13 that talk about parking demand and traffic generation</p> <p>14 nowhere near the level of our traffic expert, but</p> <p>15 they all conclude that this type of development is a</p> <p>16 low traffic generator.</p> <p>17 CHAIRMAN WEIDMANN: Yes, ma'am.</p> <p>18 MS. KING: Hello, Wendy King,</p> <p>19 48 Dearborn Drive.</p> <p>20 You said that the benefits to -- this</p> <p>21 is a benefit to seniors and that aging in place is</p> <p>22 important and I'm just wondering at past meetings we</p> <p>23 discussed that most seniors cannot afford this when</p> <p>24 we did the math, somebody came up and did it and</p> <p>25 said, well, my mother can't afford to live here and</p>

<p style="text-align: right;">97</p> <p>1 most people agreed it was ridiculously experience and</p> <p>2 their parents wouldn't and also the term "aging in</p> <p>3 place" is referred to staying at home and bringing</p> <p>4 aides in and staying with family members and that is</p> <p>5 aging in place, not going to a nursing home.</p> <p>6 So I'm wondering --</p> <p>7 CHAIRMAN WEIDMANN: Ma'am, do you have</p> <p>8 a question --</p> <p>9 MS. PRICE: Now we're getting into --</p> <p>10 CHAIRMAN WEIDMANN: -- to direct to the</p> <p>11 planner, please?</p> <p>12 MS. KING: I just asked it.</p> <p>13 CHAIRMAN WEIDMANN: That is not what</p> <p>14 the planner spoke about.</p> <p>15 MS. KING: I'm quoting him.</p> <p>16 I put in quotes as he was talking and</p> <p>17 I'm asking him two questions -- I'm asking him a</p> <p>18 question about two quotes he said.</p> <p>19 MR. ELLER: Could you just repeat the</p> <p>20 question, because I didn't understand it?</p> <p>21 MS. KING: He said, the planner said --</p> <p>22 now I lost -- the planner said that it benefits the</p> <p>23 seniors in town, this thing, right, and then he said,</p> <p>24 you know, he talked about aging in place, you know,</p> <p>25 being important and a trend and so my question is,</p>	<p style="text-align: right;">99</p> <p>1 state, out of town for housing, but to be able to</p> <p>2 stay in their community near family and friends and</p> <p>3 that's what senior housing in this typology and other</p> <p>4 typologies is intended to achieve.</p> <p>5 MS. KING: But if seniors can't afford</p> <p>6 to live in it, then they can't stay in the town.</p> <p>7 MS. PRICE: There's nothing in the</p> <p>8 record about affordability or in the proofs.</p> <p>9 MR. REGAN: It hasn't been discussed.</p> <p>10 MS. KING: You have to be able to</p> <p>11 afford to live --</p> <p>12 MR. ELLER: I disagree, we had a</p> <p>13 conversation with that and we even went to the point</p> <p>14 where we discussed with the operators the ability of</p> <p>15 people that live in town to have first right at a</p> <p>16 discount, I think, for the first year when we talked</p> <p>17 about pricing and for residents of the town to get a</p> <p>18 discount when they did their first round of</p> <p>19 enrollments.</p> <p>20 So, I believe that was going to be</p> <p>21 another condition of the approval too.</p> <p>22 MR. REGAN: I think the applicant -- I</p> <p>23 thought the applicant indicated they would review</p> <p>24 that. Okay.</p> <p>25 MS. PRICE: Yeah.</p>
<p style="text-align: right;">98</p> <p>1 that how is he determining it's a benefit to seniors</p> <p>2 in town when most of them can't afford to live in</p> <p>3 there?</p> <p>4 MR. REGAN: I don't think he talked</p> <p>5 about affordability.</p> <p>6 MS. PRICE: Correct, that's not --</p> <p>7 MR. REGAN: He didn't talk about</p> <p>8 affordability.</p> <p>9 MS. PRICE: -- this witness or any of</p> <p>10 the witnesses.</p> <p>11 MS. KING: But he's saying people can</p> <p>12 live there. So how do you know people can live</p> <p>13 there? How do you know people can afford to live</p> <p>14 there then?</p> <p>15 THE WITNESS: So, my testimony in part</p> <p>16 was based on the Master Plan for Old Tappan suggested</p> <p>17 and it, like a good comprehensive plan, suggested</p> <p>18 that there be a continuum of housing opportunities</p> <p>19 specific to people of certain age cohort and so the</p> <p>20 provision of this product in my opinion addresses</p> <p>21 what the local Master Plan has recommended.</p> <p>22 "Aging in place" is a term that is used</p> <p>23 in planning parlance regularly and while I appreciate</p> <p>24 what you just said, the broader context is allowing</p> <p>25 residents the opportunity to not have to move out of</p>	<p style="text-align: right;">100</p> <p>1 MR. REGAN: But --</p> <p>2 MR. ELLER: I'm sorry.</p> <p>3 MR. REGAN: -- again, it would be --</p> <p>4 (Simultaneous Speaking.)</p> <p>5 VICE CHAIRMAN MAMARY: You brought up</p> <p>6 that point up.</p> <p>7 MR. REGAN: -- the Medicaid benefits</p> <p>8 and they can't be --</p> <p>9 MR. ELLER: That I agree, yes.</p> <p>10 MR. REGAN: -- earmarked for Old Tappan</p> <p>11 residents.</p> <p>12 MR. ELLER: Correct, but the balance.</p> <p>13 MR. REGAN: The regulations under the</p> <p>14 affordable housing.</p> <p>15 CHAIRMAN WEIDMANN: Yes, next question?</p> <p>16 Yes, ma'am.</p> <p>17 MS. MAGARRO: Patches Magarro,</p> <p>18 4 Churchhill Road, Old Tappan.</p> <p>19 So my question is back to the Master</p> <p>20 Plan. I do have the wording from the Master Plan for</p> <p>21 you.</p> <p>22 THE WITNESS: Which one?</p> <p>23 MS. MAGARRO: The one that references</p> <p>24 this property.</p> <p>25 THE WITNESS: Which year?</p>

<p style="text-align: right;">101</p> <p>1 MS. MAGARRO: 2016. I don't have the</p> <p>2 page number.</p> <p>3 Since most of the Borough's recreation</p> <p>4 lands are not centrally located, explore and pursue</p> <p>5 any opportunities that arise to obtain properties</p> <p>6 suitable for recreation near the Borough's central</p> <p>7 zone.</p> <p>8 One example of a recent success story</p> <p>9 is the Oaks property on Central Avenue north of</p> <p>10 Haring Drive.</p> <p>11 One other such pursued property that</p> <p>12 has not as yet been successful is the historic Gerrit</p> <p>13 Haring House property adjacent to the west side of</p> <p>14 the Korean Presbyterian Church of the Palisades,</p> <p>15 which is a different church now on Old Tappan Road</p> <p>16 west across from Russell Avenue, which this property.</p> <p>17 So, as a planner, when you're</p> <p>18 discussing inherently beneficial uses, in this case</p> <p>19 would be mutually exclusive, your beneficial use of</p> <p>20 the assisted living is a generalized one and can be</p> <p>21 placed in other locations. This is a unique piece of</p> <p>22 land that is specifically named in the Master Plan.</p> <p>23 So, as a planner, how would you</p> <p>24 prioritize a specifically named use of a specifically</p> <p>25 named property versus a generalized community</p>	<p style="text-align: right;">103</p> <p>1 address this in my earlier comment about the Master</p> <p>2 Plan. I still can't find the citation.</p> <p>3 I'm looking at the Master Plan, but you</p> <p>4 read it verbatim, so I will go on faith that that's</p> <p>5 what is in the 2016 Master Plan, but as a planner,</p> <p>6 I'm looking at the Master Plan in it's totality and</p> <p>7 that's why I read the goals and objectives that I</p> <p>8 read and I would stand by my opinion that the</p> <p>9 application before this board is for the development</p> <p>10 for the purposes that it was stated and submitted and</p> <p>11 that the tradeoff or compromise in this case is the</p> <p>12 relocation of that structure, yet it won't be used as</p> <p>13 recreational space, but I'm not sure it is now, which</p> <p>14 salvages the historic significance of that site or</p> <p>15 this structure and allows for a development of this</p> <p>16 site in a way that has been quite challenging, but</p> <p>17 successfully done.</p> <p>18 MS. MAGARRO: No, I'm not asking about</p> <p>19 that historic building as a historic building.</p> <p>20 That's used as a reference point to</p> <p>21 dictate which piece of property is being discussed in</p> <p>22 the Master Plan.</p> <p>23 So, I'm not asking about using that</p> <p>24 building as a historic building. I'm asking about</p> <p>25 using that acreage as recreational space in the</p>
<p style="text-align: right;">102</p> <p>1 beneficial use.</p> <p>2 THE WITNESS: It's an excellent</p> <p>3 question.</p> <p>4 This is, perhaps, a super particular</p> <p>5 instance because in my opinion they're not mutually</p> <p>6 exclusive. Why? Because you have a situation where</p> <p>7 the Borough has identified an alternate site for that</p> <p>8 historic structure and an applicant who has agreed to</p> <p>9 at significant expense to relocate that historic</p> <p>10 structure, which was in a state of disrepair to a</p> <p>11 site which may actually be more suitable given its</p> <p>12 access and visibility, et cetera, and the care of</p> <p>13 that property. So --</p> <p>14 MS. MAGARRO: They mentioned the</p> <p>15 historic house, but they're referring to this</p> <p>16 property as a recreational property, not as a museum.</p> <p>17 So once its become an assisted living,</p> <p>18 it will no longer be a recreational property. They</p> <p>19 are mutually exclusive.</p> <p>20 THE WITNESS: I don't agree with that,</p> <p>21 but I hear what you're saying.</p> <p>22 MS. MAGARRO: Well, how could it be a</p> <p>23 recreational property centrally located at this</p> <p>24 specific location if it becomes an assisted living?</p> <p>25 THE WITNESS: Again, and I tried to</p>	<p style="text-align: right;">104</p> <p>1 center of town. That's what's -- and it doesn't say</p> <p>2 that it's being used as that. It's saying that it</p> <p>3 should be acquired if at all possible.</p> <p>4 So given a specific use of a specific</p> <p>5 piece of land versus a generalized beneficial use,</p> <p>6 how can one prioritize those?</p> <p>7 THE WITNESS: Again, if you look at the</p> <p>8 totality of the Master Plan and the number of goals</p> <p>9 and objectives and weigh them against the citation</p> <p>10 you're providing, my testimony will still be that the</p> <p>11 application before this board and its community is a</p> <p>12 good application, it does advance the goals and</p> <p>13 objectives of the Master Plan for all the reasons</p> <p>14 I've stated.</p> <p>15 MS. MAGARRO: Okay.</p> <p>16 I disagree.</p> <p>17 THE WITNESS: Okay. Fair enough.</p> <p>18 MR. ELLER: Can I -- quick question,</p> <p>19 because --</p> <p>20 CHAIRMAN WEIDMANN: Go ahead.</p> <p>21 MR. ELLER: Just because the point has</p> <p>22 come up a couple of times about that language in the</p> <p>23 Master Plan and this is, I guess, more for Bob, but</p> <p>24 the point has come up if the property becomes</p> <p>25 available, et cetera.</p>

<p style="text-align: right;">105</p> <p>1 As far as I know, this -- the town</p> <p>2 never was approached to purchase it or right now</p> <p>3 there's a sale agreement for this, so it -- as far as</p> <p>4 we know it's never been available to the town to</p> <p>5 purchase. I don't know what the --</p> <p>6 MR. MAGGIO: Can I take a stab at this?</p> <p>7 CHAIRMAN WEIDMANN: Yes.</p> <p>8 MR. MAGGIO: So, I think it was in 1997</p> <p>9 the Borough adopted a law called the Open Space</p> <p>10 Advisory Law and it took a small percentage tax out</p> <p>11 of everybody's --</p> <p>12 MR. REGAN: Probably a referendum.</p> <p>13 MR. MAGGIO: Exactly.</p> <p>14 I forget what it was. It was some</p> <p>15 ridiculously low number.</p> <p>16 MR. ELLER: Two cents, two cents a</p> <p>17 square foot or something.</p> <p>18 MR. MAGGIO: It was like seven-tenths</p> <p>19 of a percent and it was used to acquire properties</p> <p>20 for the public good and the reason why I know that, I</p> <p>21 was the Chair of that committee for about seven years</p> <p>22 and we acquired quite a few sites and I personally</p> <p>23 picked out the Oak site and the Bonae site and both</p> <p>24 of them became parks for us.</p> <p>25 So, and the Gerrit Haring House was on</p>	<p style="text-align: right;">107</p> <p>1 MR. SZABO: And everybody knows --</p> <p>2 MR. REGAN: And the town cannot be</p> <p>3 compelled.</p> <p>4 MR. SZABO: And that was my final</p> <p>5 comment is that you can't be compelled to purchase</p> <p>6 property. It's there, it helps to guide decision</p> <p>7 making when it comes time to allocating resources for</p> <p>8 where you're going to buy, how you're going to use</p> <p>9 Green Acre funds.</p> <p>10 So, those priorities are there. Yes,</p> <p>11 the property is identified.</p> <p>12 The other comment I would make is</p> <p>13 doesn't it mean that it's mutually exclusive to other</p> <p>14 goals and needs of the community as expressed by the</p> <p>15 Master Plan?</p> <p>16 And that's the balancing that has to</p> <p>17 occur and that's why we have boards to make those</p> <p>18 decisions.</p> <p>19 MR. ELLER: And just the reason I</p> <p>20 raised the point was, it seems that most of those --</p> <p>21 while I understand the reason I think people are</p> <p>22 asking that question, it's almost a moot point in</p> <p>23 that the Borough had no ability or was not able to</p> <p>24 are not involved in the process.</p> <p>25 It's a private owner selling to another</p>
<p style="text-align: right;">106</p> <p>1 that list of properties to acquire, but we didn't</p> <p>2 have enough money for it and it wasn't for sale and</p> <p>3 the person never came to us and approached us for it.</p> <p>4 MR. ELLER: And that's the point I'm</p> <p>5 trying to make.</p> <p>6 Is the burden -- I don't -- yeah.</p> <p>7 MR. SZABO: Mr. Chairman, if I may,</p> <p>8 it's page 26 of the 2016 Re-Exam and that was</p> <p>9 referring back to your 2006 Master Plan, but the</p> <p>10 point I'd like to make is it's aspirational, you do</p> <p>11 an open space plan, you have a target list, you try</p> <p>12 to acquire those properties, but the key word here is</p> <p>13 "availability."</p> <p>14 Absent an offer and an interest, the</p> <p>15 town would have to go in and condemn it and that's</p> <p>16 the alternative and that becomes an expensive process</p> <p>17 and you just heard that there's a limitation on</p> <p>18 funding, so you have to prioritize.</p> <p>19 So, it's aspirational. If you don't</p> <p>20 put these properties, got do a lot of open space</p> <p>21 planning on a list, then, you know, you're not --</p> <p>22 Green Acres will look at it and say why are you</p> <p>23 buying those properties when you've identified these.</p> <p>24 MR. MAGGIO: Yeah, like 14 or 16</p> <p>25 properties.</p>	<p style="text-align: right;">108</p> <p>1 private entity.</p> <p>2 It's not that the Borough had any</p> <p>3 opportunity, and we can't go in and stop a sale or do</p> <p>4 anything like that, it's not our position.</p> <p>5 MS. PRICE: Right.</p> <p>6 (Audience Outburst.)</p> <p>7 MR. ELLER: Well, that's a whole</p> <p>8 'nother -- but gain, we're not going to -- that's</p> <p>9 condemning the issue. So --</p> <p>10 FEMALE AUDIENCE MEMBER: The town --</p> <p>11 MR. ELLER: -- I just wanted to put that</p> <p>12 on the record.</p> <p>13 MS. PRICE: Mr. Chairman, can we take a</p> <p>14 five-minute break for the court reporter?</p> <p>15 She's been on since --</p> <p>16 MS. LEVINE: I'm Catherine Levine. I</p> <p>17 was on the environmental commission when that</p> <p>18 referendum was passed with Pat Dorf.</p> <p>19 And I want to correct you on something.</p> <p>20 THE COURT REPORTER: I'm sorry --</p> <p>21 MS. PRICE: Wait.</p> <p>22 THE COURT REPORTER: -- please state</p> <p>23 your address, please, for the record.</p> <p>24 MS. LEVINE: Three Klein Court.</p> <p>25 MS. PRICE: If there's going to be</p>

<p style="text-align: right;">109</p> <p>1 something sworn --</p> <p>2 CHAIRMAN WEIDMANN: No.</p> <p>3 MS. LEVINE: It's nothing sworn.</p> <p>4 MR. REGAN: You're going to ask a</p> <p>5 question.</p> <p>6 MS. LEVINE: He gave his experience.</p> <p>7 I'm giving my experience.</p> <p>8 MR. REGAN: This is time for questions</p> <p>9 of the planner.</p> <p>10 MS. LEVINE: No, but I just want to</p> <p>11 correct something that was stated for the record.</p> <p>12 CHAIRMAN WEIDMANN: Okay.</p> <p>13 MS. LEVINE: Okay.</p> <p>14 CHAIRMAN WEIDMANN: Thank you.</p> <p>15 MS. LEVINE: And that referendum came</p> <p>16 because there was a developer by the name of Reduci</p> <p>17 (phonetic) that wanted to develop five or six homes</p> <p>18 along the Washington Avenue reservoir and at that</p> <p>19 time Carmen Ian (phonetic), the councilwoman, did not</p> <p>20 want to see that happen and that's when we started</p> <p>21 the referendum, Reduci was already submitting plans</p> <p>22 for the building. We got the referendum. And we</p> <p>23 blocked the building of the houses.</p> <p>24 MR. MAGGIO: And then went ahead and</p> <p>25 got some parks out of it too.</p>	<p style="text-align: right;">111</p> <p>1 MS. LEVINE: Yeah, but I don't know</p> <p>2 what we've used the money for since then.</p> <p>3 MR. MAGGIO: I don't think there's</p> <p>4 anymore money left.</p> <p>5 MS. LEVINE: We keep doing it. We keep</p> <p>6 collecting the money.</p> <p>7 MR. MAGGIO: Well, I'm not on the</p> <p>8 committee anymore.</p> <p>9 MS. LEVINE: Well...</p> <p>10 CHAIRMAN WEIDMANN: A little history of</p> <p>11 Old Tappan.</p> <p>12 Any other questions?</p> <p>13 MR. ALESSI: Buddy, can we take a</p> <p>14 break?</p> <p>15 MR. REGAN: For the court reporter.</p> <p>16 MS. HAVERILLA: She needs a break.</p> <p>17 MR. ALESSI: The court reporter.</p> <p>18 CHAIRMAN WEIDMANN: The court reporter</p> <p>19 needs a break.</p> <p>20 MR. ALESSI: We're taking a break for</p> <p>21 the court reporter.</p> <p>22 CHAIRMAN WEIDMANN: We're going to have</p> <p>23 a five-minute break.</p> <p>24 (Whereupon, a brief recess is held.)</p> <p>25 CHAIRMAN WEIDMANN: The meeting is</p>
<p style="text-align: right;">110</p> <p>1 CHAIRMAN WEIDMANN: Thank you.</p> <p>2 MS. LEVINE: Well, it was just green</p> <p>3 space.</p> <p>4 So there is precedent for that. Okay?</p> <p>5 He didn't approach us, we approached them and we</p> <p>6 stopped it.</p> <p>7 MR. MAGGIO: But for Bonnabel and with</p> <p>8 Oaks, we spoke to those people and they chose to sell</p> <p>9 those homes to us.</p> <p>10 MS. LEVINE: Okay. But --</p> <p>11 MR. MAGGIO: And that was after -- that</p> <p>12 was after that referendum occurred.</p> <p>13 MS. LEVINE: The development was</p> <p>14 already talked about --</p> <p>15 (Simultaneous Speaking.)</p> <p>16 MR. MAGGIO: -- there was a lot of good</p> <p>17 that came form that referendum.</p> <p>18 MS. LEVINE: -- on that property to</p> <p>19 already go and we circumvented it --</p> <p>20 MR. MAGGIO: That's good.</p> <p>21 MS. LEVINE: -- for green space.</p> <p>22 MR. MAGGIO: That was good --</p> <p>23 MS. LEVINE: So --</p> <p>24 MR. MAGGIO: And then what came out</p> <p>25 afterwards was good.</p>	<p style="text-align: right;">112</p> <p>1 going to reconvene.</p> <p>2 Take your seats, please.</p> <p>3 The meeting will reconvene.</p> <p>4 Is there anyone else from the public</p> <p>5 that has any questions for the planner?</p> <p>6 Yes, sir, please come forward.</p> <p>7 MR. GELFAND: Yes, I'm H. Gelfand.</p> <p>8 I'm the Chairperson of the Bergen</p> <p>9 County Historical Society, Historic Preservation</p> <p>10 Committee.</p> <p>11 And so I wanted --</p> <p>12 THE COURT REPORTER: I'm sorry, your</p> <p>13 name again, sir?</p> <p>14 MR. GELFAND: H. Gelfand,</p> <p>15 G-E-L-F-A-N-D.</p> <p>16 THE COURT REPORTER: And your address,</p> <p>17 please?</p> <p>18 MR. GELFAND: It's 33-05 Rosalie in</p> <p>19 Fair Lawn.</p> <p>20 THE COURT REPORTER: Thank you.</p> <p>21 MR. GELFAND: Thank you.</p> <p>22 So, since you were bringing up</p> <p>23 precedent about legal issues, I wanted to bring up</p> <p>24 precedence also about the incorporation of historic</p> <p>25 stone houses, intra-medical facilities and other</p>

<p style="text-align: right;">113</p> <p>1 types of assisted living facilities in Bergen County 2 of which there are multiple examples. I'll just 3 bring up one. 4 I made a whole list of them, but 5 there's a place called Sunrise Assisted Living on 6 Paramus Road in Paramus where the planning board -- 7 MR. REGAN: Sir, we need a question. 8 MR. GELFAND: I'm providing some 9 background information. 10 In the case of Paramus, what happened 11 is because there was a -- excuse me -- a historic 12 house, the municipality and the developer worked 13 together -- 14 MR. REGAN: You're getting involved in 15 testimony. I'm going to have to swear you in. This 16 is really not the time. 17 MR. GELFAND: I'd be happy if you were 18 to swear me in, but I'm just trying to make a point 19 here that the municipality and the developer worked 20 together so that the historic house could you part of 21 the facility and I'm wondering why, because you 22 called the plan creative, why the house is not being 23 incorporated into this particular plan. 24 MS. PRICE: Just for the record, 25 Mr. McElwee -- that's Mr. McElwee's project.</p>	<p style="text-align: right;">115</p> <p>1 subdividing the property, giving two acres to the 2 Borough, giving the house and the two acres to the 3 Borough and it was then revised to put -- transfer 4 the house at the developer's cost across the street. 5 MR. GELFAND: So, I guess I'm just 6 wondering why it can't be put back into the plan. 7 MS. HAVERILLA: Well, the problem is 8 whether or not they keep it on that property or they 9 put it on the Borough's property, it has to be moved, 10 because it is in the way of the building that they 11 need to -- 12 MR. GELFAND: Ma'am, with all due 13 respect, the point that I'm making is that I have a 14 list here of other facilities where people have 15 incorporated the historic house into the 16 architectural design. 17 MS. HAVERILLA: So, you're saying with 18 the building, not move the building? 19 MR. GELFAND: Exactly correct, that's 20 the point. 21 MR. REGAN: That's not part of the 22 plan. 23 MS. PRICE: Yeah, that's not the 24 application. 25 MS. HAVERILLA: It was never part of</p>
<p style="text-align: right;">114</p> <p>1 MR. REGAN: And he previously 2 testified. 3 MS. PRICE: Yeah, he previously 4 testified. 5 I'm not sure of the relevance of that 6 -- 7 MR. REGAN: It's beyond the parameters 8 of his testimony. 9 MS. PRICE: Correct, beyond 10 Mr. Williams' testimony in its entirety. 11 MR. GELFAND: He did call the plan 12 creative and I'm just wondering why the creativity 13 was not extended by the architect for this proposal. 14 MR. MAGGIO: But it was actually. 15 The first six months of this hearing 16 we've had, that house was part of the design. 17 MR. GELFAND: And yet it's not now is 18 the point. 19 MR. MAGGIO: Because there was an 20 agreement made with the -- 21 MR. REGAN: With the municipality. 22 MR. MAGGIO: The municipality, correct. 23 It had nothing to do with the developer. The 24 developer was very happy to leave the house there. 25 MS. PRICE: And at one point we were</p>	<p style="text-align: right;">116</p> <p>1 the plan. 2 MR. GELFAND: Well, with all due 3 respect, since the historic house is listed in the 4 Master Plan as a historic resource, which the Borough 5 is supposed to be protecting as part of the Master 6 Plan, one of the things that this committee could 7 potentially do -- this board, excuse me, is to 8 suggest, i.e., require that the house remain part of 9 the plan. 10 So I'll just leave my comments there. 11 MR. ALESSI: Buddy, I got to make a 12 comment. I just got a note that a lot of illegally 13 parked cars in the fire department lot. 14 If you don't want your car ticketed and 15 towed, I would suggest you go out and move from the 16 fire department members only lot, the lot right next 17 door to the firehouse, it has a sign, "do not park, 18 firemen only." 19 (Laughter.) 20 MALE AUDIENCE MEMBER: Have new 21 volunteers. 22 MR. ALESSI: And nobody is getting up 23 to move, okay. 24 MR. ELLER: I got a ticket there a 25 couple meetings ago.</p>

<p style="text-align: right;">117</p> <p>1 (Laughter.)</p> <p>2 MR. ALESSI: Okay, ticket.</p> <p>3 CHAIRMAN WEIDMANN: Anyone else have</p> <p>4 any questions?</p> <p>5 The young -- no, no, the lady in the</p> <p>6 back who's had her hand up.</p> <p>7 (Applause.)</p> <p>8 MS. SONG: Kaitlin Song, 56 Leonard</p> <p>9 Drive.</p> <p>10 THE COURT REPORTER: Spell your last</p> <p>11 name.</p> <p>12 MS. SONG: S-O-N-G.</p> <p>13 THE COURT REPORTER: Thank you.</p> <p>14 MS. SONG: So, how does the location of</p> <p>15 this development best support other goals referenced</p> <p>16 in the 2016 Master Plan specifically Goal 8, which</p> <p>17 states that Old Tappan seeks to pursue opportunities</p> <p>18 to achieve a greater balance of nonresidential to</p> <p>19 residential land use in appropriate locations and</p> <p>20 appropriate intensity.</p> <p>21 So, my question is: How do you justify</p> <p>22 this lot as the most optimal space for this project?</p> <p>23 THE WITNESS: I'm trying to parse the</p> <p>24 questions.</p> <p>25 It sounds like there are a couple of</p>	<p style="text-align: right;">119</p> <p>1 MS. SONG: 50, it should be.</p> <p>2 THE WITNESS: You said 5-0?</p> <p>3 MS. SONG: Yeah.</p> <p>4 THE WITNESS: Bear with me one second,</p> <p>5 please.</p> <p>6 No, that's not it. You're looking at</p> <p>7 the 2016 Master Plan?</p> <p>8 MS. SONG: Yes.</p> <p>9 THE WITNESS: So, page 50 appears to be</p> <p>10 Roman Numeral No. 7, recommendations concerning the</p> <p>11 incorporation of redevelopment plans.</p> <p>12 MS. SONG: I think it was like 55</p> <p>13 pages.</p> <p>14 FEMALE AUDIENCE MEMBER: Page 47.</p> <p>15 THE WITNESS: Forty-seven.</p> <p>16 "Old Tappan seeks to pursue</p> <p>17 opportunities to achieve greater balance of</p> <p>18 nonresidential to residential land use in</p> <p>19 appropriate locations at appropriate</p> <p>20 intensities but within existing commercial</p> <p>21 areas."</p> <p>22 Yeah, so I think I would go back to my</p> <p>23 original statement that while Goal -- there are a</p> <p>24 number of goals and objectives in the Master Plan. I</p> <p>25 cited the goals and objectives that I think would be</p>
<p style="text-align: right;">118</p> <p>1 questions, right?</p> <p>2 One is specific to Goal 8.</p> <p>3 The other is, how does the proposed</p> <p>4 development comport with the Master Plan and there</p> <p>5 was a third, I think.</p> <p>6 MS. SONG: Two, just two.</p> <p>7 THE WITNESS: Two, okay.</p> <p>8 As I review the Master Plan in support</p> <p>9 of this application, I look at, as I think I've</p> <p>10 mentioned before, the overall intent and purpose of</p> <p>11 the Master Plan and goals and objectives that may</p> <p>12 support this application. I listed several. It</p> <p>13 doesn't mean that this application will advance every</p> <p>14 goal and objective of the Master Plan. There's some</p> <p>15 that are just not applicable, but in my opinion</p> <p>16 having reviewed the Master Plan, there were</p> <p>17 significant goals and objectives and policy</p> <p>18 statements that would be advanced if this application</p> <p>19 were to be approved.</p> <p>20 MS. SONG: So, you're saying Goal 8</p> <p>21 doesn't have to do with this?</p> <p>22 THE WITNESS: No, that's not what I'm</p> <p>23 saying. I'm saying that in terms of -- and I should</p> <p>24 make sure which goal -- do you know what page you're</p> <p>25 looking at for Goal 8.</p>	<p style="text-align: right;">120</p> <p>1 advanced by approval of this application.</p> <p>2 Goal 8 seeks to pursue opportunities to</p> <p>3 achieve greater balance of nonresidential to</p> <p>4 residential. It doesn't seem to apply, because this</p> <p>5 is, although deemed commercial, it's really</p> <p>6 residential development, it's for living</p> <p>7 accommodations, so...</p> <p>8 MS. SONG: Okay, thank you.</p> <p>9 THE WITNESS: Thank you.</p> <p>10 CHAIRMAN WEIDMANN: Anyone else have</p> <p>11 any questions?</p> <p>12 Yes, ma'am, in the back.</p> <p>13 MS. PILKINGTON: Laura Pilkington, Old</p> <p>14 Tappan.</p> <p>15 THE COURT REPORTER: I'm sorry, your</p> <p>16 last name again.</p> <p>17 MS. PILKINGTON: Pilkington,</p> <p>18 P-I-L-K-I-N-G-T-O-N.</p> <p>19 THE COURT REPORTER: And your address?</p> <p>20 MS. PILKINGTON: Pilkington 28 Country</p> <p>21 Squire.</p> <p>22 THE COURT REPORTER: Thank you.</p> <p>23 MS. PILKINGTON: Thank you.</p> <p>24 So, in attempt to truly quantify the</p> <p>25 need, what is the historic and current utilization of</p>

<p style="text-align: right;">121</p> <p>1 the Old Tappan Sunrise facility and assisted living</p> <p>2 facilities in the adjacent towns specifically your</p> <p>3 Norwood and Washington Township locations?</p> <p>4 THE WITNESS: Current utilization,</p> <p>5 meaning occupancy?</p> <p>6 MS. PILKINGTON: Yup.</p> <p>7 THE WITNESS: I'm not sure.</p> <p>8 MS. PILKINGTON: Okay.</p> <p>9 You had back in February and March I</p> <p>10 asked this question to the applicant and he said he</p> <p>11 was going to research.</p> <p>12 So you had provided information stating</p> <p>13 that, you know, he was more than forthcoming with the</p> <p>14 information.</p> <p>15 So I'm wondering if he ever got an</p> <p>16 answer to those.</p> <p>17 THE WITNESS: If he ever got an answer</p> <p>18 to those?</p> <p>19 MS. PILKINGTON: Correct.</p> <p>20 THE WITNESS: I don't know.</p> <p>21 MS. PILKINGTON: If that was ever</p> <p>22 determined.</p> <p>23 MS. PRICE: Washington Township was</p> <p>24 under construction, so...</p> <p>25 MS. PILKINGTON: What about Sunrise and</p>	<p style="text-align: right;">123</p> <p>1 indicated a Certificate of Need confirming this exact</p> <p>2 project. So, it's been approved in its totality by</p> <p>3 the state and the exhibit is A-22 in the record, if</p> <p>4 you want to look at that Certificate of Need. Yup,</p> <p>5 A-22.</p> <p>6 MS. PILKINGTON: Okay.</p> <p>7 MR. ELLER: Does that approval outline</p> <p>8 their reasoning or anything, something to give her a</p> <p>9 little more of that?</p> <p>10 MS. PRICE: Yes, it's like a three-page</p> <p>11 document. It's not just a short paragraph.</p> <p>12 MR. ELLER: Is that on the website, do</p> <p>13 you know?</p> <p>14 Did we upload that or no?</p> <p>15 MS. FROHLICH: Going back to that first</p> <p>16 meeting, I don't know, I'd have to check.</p> <p>17 MR. ELLER: Okay. I'm sure we can get</p> <p>18 a copy.</p> <p>19 MS. PRICE: I can get a copy of it to</p> <p>20 Diane.</p> <p>21 MS. FROHLICH: Please.</p> <p>22 MS. PILKINGTON: And can I ask another</p> <p>23 question actually to the board?</p> <p>24 CHAIRMAN WEIDMANN: You have one more</p> <p>25 question?</p>
<p style="text-align: right;">122</p> <p>1 Norwood and the local adjacent?</p> <p>2 MS. PRICE: I don't know about Sunrise.</p> <p>3 That's not our project, so I don't know.</p> <p>4 MS. PILKINGTON: It should be part of</p> <p>5 the research to determine the need, wouldn't you</p> <p>6 think?</p> <p>7 MS. PRICE: I don't want to testify.</p> <p>8 I think Mr. McElwee testified in terms</p> <p>9 of how CSH determines need and all the factors that</p> <p>10 they take into account.</p> <p>11 He testified at length about that and</p> <p>12 whenever they go into a particular market, the</p> <p>13 factors that they consider.</p> <p>14 So, you know, he -- it's his testimony</p> <p>15 that I just refer you to.</p> <p>16 THE WITNESS: And the Certificate of</p> <p>17 Need, too.</p> <p>18 MS. PRICE: And the Certificate of</p> <p>19 Need, which has been issued by the state confirming</p> <p>20 the need and outlining the number of beds, number of</p> <p>21 units and the other parameters.</p> <p>22 MS. PILKINGTON: Okay.</p> <p>23 So, we don't truly have an</p> <p>24 understanding then if this is truly needed.</p> <p>25 MS. PRICE: Well, the state has</p>	<p style="text-align: right;">124</p> <p>1 MS. PILKINGTON: Just one more easy</p> <p>2 one.</p> <p>3 CHAIRMAN WEIDMANN: Pardon me?</p> <p>4 MS. PILKINGTON: Just one easy question</p> <p>5 to the board.</p> <p>6 MR. ALESSI: Can you speak up a little</p> <p>7 bit?</p> <p>8 MS. PILKINGTON: Absolutely, I can</p> <p>9 attempt to. My voice doesn't carry.</p> <p>10 Are there any existing three-story</p> <p>11 structures in Old Tappan?</p> <p>12 MR. ALESSI: Being built.</p> <p>13 MS. PILKINGTON: No.</p> <p>14 MR. ALESSI: No, it's being built.</p> <p>15 FEMALE AUDIENCE MEMBER: Central</p> <p>16 Avenue.</p> <p>17 MR. ALESSI: And the other.</p> <p>18 MS. PILKINGTON: Central Avenue is</p> <p>19 three?</p> <p>20 FEMALE AUDIENCE MEMBER: Yup.</p> <p>21 MR. ALESSI: And the big, big, big, big</p> <p>22 building behind Bi-State is three stories.</p> <p>23 MS. PILKINGTON: Okay. Okay, thank</p> <p>24 you.</p> <p>25 CHAIRMAN WEIDMANN: Any other</p>

<p style="text-align: right;">125</p> <p>1 questions?</p> <p>2 Yes.</p> <p>3 MS. FONOROW: Cherie Fonorow, 256 Old</p> <p>4 Tappan Road.</p> <p>5 MR. ELLER: Can you just --</p> <p>6 MS. FONOROW: I'll just wait, yeah,</p> <p>7 wait until they leave.</p> <p>8 CHAIRMAN WEIDMANN: Ma'am, one question</p> <p>9 to the planner.</p> <p>10 MS. FONOROW: Okay. I understand,</p> <p>11 okay. I want to just sort of nobody's ever</p> <p>12 questioned Mr. McGuillie's [sic] reputation.</p> <p>13 THE WITNESS: Who's Mr. McGuillie?</p> <p>14 MS. PRICE: McElwee.</p> <p>15 THE WITNESS: Oh, McElwee, okay.</p> <p>16 MS. FONOROW: McElwee, sorry, I</p> <p>17 mispronounced your name, I apologize.</p> <p>18 He's not on trial here.</p> <p>19 So I'm going to speak -- this is</p> <p>20 personal.</p> <p>21 I'm a neighbor of the property and I've</p> <p>22 lived here 25 years and I would love to have the</p> <p>23 luxury of having an attorney represent me, because</p> <p>24 that was mentioned, the other neighbors -- there's</p> <p>25 been no mention of --</p>	<p style="text-align: right;">127</p> <p>1 FEMALE AUDIENCE MEMBER: But you do</p> <p>2 this every time.</p> <p>3 CHAIRMAN WEIDMANN: Ma'am.</p> <p>4 MS. FONOROW: I don't know how I'm</p> <p>5 supposed to ask questions that are relevant to the</p> <p>6 property, because I am a neighbor, I do have a well,</p> <p>7 there's carcinogens with development and building</p> <p>8 materials.</p> <p>9 I've done all the research. The</p> <p>10 wetlands flood.</p> <p>11 MS. PRICE: I'm going to object.</p> <p>12 CHAIRMAN WEIDMANN: Ma'am.</p> <p>13 MR. REGAN: You're testifying.</p> <p>14 MS. PRICE: There's nothing -- the</p> <p>15 witness is not --</p> <p>16 MS. FONOROW: I know you -- there's no</p> <p>17 -- of course it's objectionable.</p> <p>18 None of this information that's all</p> <p>19 very important is allowed to come out.</p> <p>20 MS. PRICE: That's not true. That's</p> <p>21 not true and the --</p> <p>22 MR. REGAN: Please ask your question</p> <p>23 regarding the planning testimony.</p> <p>24 MS. FONOROW: So my question to the</p> <p>25 planner, which has to do with the Silver Tsunami, you</p>
<p style="text-align: right;">126</p> <p>1 CHAIRMAN WEIDMANN: Ma'am, one</p> <p>2 question, please.</p> <p>3 MS. FONOROW: Yes, this is a highly</p> <p>4 unique situation.</p> <p>5 So, my question is: Being its</p> <p>6 historical and environmental importance, can you tell</p> <p>7 me what is or was done regarding the neighbors that</p> <p>8 live to the west of the property?</p> <p>9 Have there -- can you show me any</p> <p>10 renderings of what the view or the sight lines will</p> <p>11 look like?</p> <p>12 CHAIRMAN WEIDMANN: Ma'am.</p> <p>13 MR. REGAN: He didn't testify about</p> <p>14 that.</p> <p>15 CHAIRMAN WEIDMANN: He didn't testify</p> <p>16 -- he's the planner and you've asked that question to</p> <p>17 other people.</p> <p>18 MS. FONOROW: And I haven't gotten any</p> <p>19 answers. I wouldn't --</p> <p>20 FEMALE AUDIENCE MEMBER: If something</p> <p>21 is being left out that's important, critical and</p> <p>22 relevant --</p> <p>23 CHAIRMAN WEIDMANN: Ma'am, it's not</p> <p>24 your turn to speak. You want to get up and speak,</p> <p>25 you can come up and speak.</p>	<p style="text-align: right;">128</p> <p>1 know that there's already an assisted living in town</p> <p>2 and you know the population of Old Tappan currently?</p> <p>3 THE WITNESS: Yes.</p> <p>4 So, I've provided the testimony about</p> <p>5 the demographic analysis.</p> <p>6 MS. FONOROW: Yeah.</p> <p>7 So, my question -- because I did some,</p> <p>8 too. So there's between -- with Enclave it will be</p> <p>9 more. So, let's say, roughly 6,000 people in town</p> <p>10 and we have an assisted living in town.</p> <p>11 Are you aware of how many assisted</p> <p>12 livings there already are within a 5 and 10 mile</p> <p>13 radius of Old Tappan that people could afford it and</p> <p>14 choose to stay when they're 75 plus, there's a lot of</p> <p>15 options.</p> <p>16 THE WITNESS: I can say that</p> <p>17 Mr. McElwee during the first hearing provided</p> <p>18 testimony about the radius and what assisted living</p> <p>19 options are within that radius.</p> <p>20 He also provided his own market</p> <p>21 analysis and then last but not least, again, the</p> <p>22 applicant does have the state department of health</p> <p>23 Certificate of Need, which underscores the fact that</p> <p>24 there is a need for this type of housing on a</p> <p>25 continuum.</p>

<p style="text-align: right;">129</p> <p>1 MS. FONOROW: Okay. I -- I -- do you</p> <p>2 know that -- what the median age is -- because A</p> <p>3 Place For Mom was 75, so it was within a 5 to 10 mile</p> <p>4 radius, but do you know the median age of the Old</p> <p>5 Tappan residents?</p> <p>6 THE WITNESS: Not offhand.</p> <p>7 I'd have to -- we have the demographic</p> <p>8 analysis. I don't have that committed to memory.</p> <p>9 MS. FONOROW: Okay. The Census</p> <p>10 currently, the new Census says 45.4 is the average</p> <p>11 age of an Old Tappan resident, median age.</p> <p>12 CHAIRMAN WEIDMANN: Ma'am, are you</p> <p>13 testifying or are you asking a question?</p> <p>14 MS. FONOROW: I was asking if he knows</p> <p>15 the questions, because they're making --</p> <p>16 MR. REGAN: He answered no.</p> <p>17 CHAIRMAN WEIDMANN: He said no.</p> <p>18 MS. FONOROW: Okay. So have you done</p> <p>19 research on how many residents of Old Tappan and the</p> <p>20 neighboring residents will actually use this facility</p> <p>21 that are 75 years old plus that are going to stay in</p> <p>22 Old Tappan and use the facility?</p> <p>23 MS. PRICE: It goes beyond</p> <p>24 Mr. Williams' testimony. Mr. McElwee provided all of</p> <p>25 the initial demographic --</p>	<p style="text-align: right;">131</p> <p>1 was from, I'm not questioning that. I'm just looking</p> <p>2 to compare it to the research that I've done, because</p> <p>3 you're establishing this inherent beneficial use for</p> <p>4 all in the community and to me this doesn't fit the</p> <p>5 criteria for that particular segment of the</p> <p>6 population, what you're talking about, it's a very</p> <p>7 narrow segment of the population and it did say over</p> <p>8 51 percent is male and unfortunately, they're not</p> <p>9 supposedly supposed to live as long as we do, so I</p> <p>10 don't know how many of them are moving in.</p> <p>11 MS. PRICE: I don't know what we're</p> <p>12 referring to now.</p> <p>13 MS. FONOROW: Thank you.</p> <p>14 CHAIRMAN WEIDMANN: Anyone else wish to</p> <p>15 be heard?</p> <p>16 Yes, ma'am, please step forward.</p> <p>17 MS. CHO: Jane Cho, 16 Lakeview Drive.</p> <p>18 Hi.</p> <p>19 THE WITNESS: Hello.</p> <p>20 MS. CHO: You testified earlier that a</p> <p>21 single-family home was 8400 square foot and that you</p> <p>22 would require over 81,000 square footage.</p> <p>23 THE WITNESS: No, that wasn't me.</p> <p>24 MS. CHO: Okay.</p> <p>25 I don't know how I got these numbers if</p>
<p style="text-align: right;">130</p> <p>1 MR. REGAN: At the first hearing.</p> <p>2 MS. PRICE: -- and market analysis.</p> <p>3 MS. FONOROW: And the planner just</p> <p>4 reiterated all of it and I wouldn't have brought it</p> <p>5 up if he hadn't, because I only took notes based on</p> <p>6 what he said.</p> <p>7 MS. PRICE: I think that what the</p> <p>8 planner testified to were two prongs in terms of the</p> <p>9 increase in the population, it was two sentences. He</p> <p>10 did not testify as to any need. He testified based</p> <p>11 upon the 2019 American Community Survey five-year</p> <p>12 estimate.</p> <p>13 They were -- he was not testifying as</p> <p>14 to his personal research or his recollection or his</p> <p>15 data. He was referring to a document done by others</p> <p>16 and referred to Old Tappan and actually in that</p> <p>17 document that he referred to said that it was 60 year</p> <p>18 old that increased.</p> <p>19 Correct, Mr. Williams?</p> <p>20 THE WITNESS: That's correct.</p> <p>21 MS. FONOROW: And I'm just -- this was</p> <p>22 presented to the public as part of your testimony and</p> <p>23 we we're told we can ask questions based on what your</p> <p>24 testimony is.</p> <p>25 So where you sourced it or what year it</p>	<p style="text-align: right;">132</p> <p>1 you didn't say it before.</p> <p>2 So, but I know it's going to be</p> <p>3 something to that effect, it's okay.</p> <p>4 Basically, we were all questioning</p> <p>5 about the trees and the reduction, the cutting down</p> <p>6 of the trees.</p> <p>7 As a planner, did you ever consider</p> <p>8 putting the parking lot that's take up a lot of</p> <p>9 impervious footprint on the lot, putting it a level,</p> <p>10 two level underneath so that the people who come to</p> <p>11 visit don't have to go fight through rain and snow</p> <p>12 and storm which we will have and have the convenience</p> <p>13 of visiting their relatives indoors and having access</p> <p>14 to elevators and whatnot, to create more trees or</p> <p>15 nature preserved areas in the parameter, as a planner</p> <p>16 to have maybe a nature walk surrounding the parameter</p> <p>17 instead of a parking lot, which will create</p> <p>18 impervious, rainwater that's going to go somewhere,</p> <p>19 lights that will be, you know, for the night, light</p> <p>20 pollution.</p> <p>21 So as a planner, would you be able to</p> <p>22 plan something that will reduce the square footage of</p> <p>23 the building for imperviousness and go, since you</p> <p>24 have a -- \$26 million, I think you stated, right, as</p> <p>25 a total project, I'm not quite sure how much more</p>

<p style="text-align: right;">133</p> <p>1 it's going to cost, but seeing that it may increase, 2 you know, 1 to 5 percent of it to create more to save 3 the large trees that we have may pacify or, you know, 4 to bring some of the people who have so much things 5 against the killing off of a lot of the nature 6 things, have you ever planned that or thought about 7 it.</p> <p>8 THE WITNESS: I'll try to answer this 9 question as best I can.</p> <p>10 I understand your question did I plan 11 it and just so we're clear, we have a site engineer 12 that gave a lot of thought to how to design the site, 13 how to be sensitive to the wetlands and so I think my 14 testimony as a planner was based on the testimony 15 from our site engineer. It was not an easy feat and 16 so he deserves a lot of credit for that.</p> <p>17 Whether the site engineer, not me, the 18 site engineer considered subterranean parking, to be 19 honest with you, I don't know the answer to that.</p> <p>20 I know that that's even more 21 challenging than what we have, but that would be a 22 question for our site engineer. I don't know that he 23 did that.</p> <p>24 MS. CHO: Okay. It's difficult for me 25 because I live right abut to the back and you as a</p>	<p style="text-align: right;">135</p> <p>1 THE WITNESS: At this point, no, but I 2 can tell you that this team investigated a number of 3 scenarios, some of which were discussed in previous 4 hearings, but, yeah, I'm not the site engineer, so 5 that would not be my purview.</p> <p>6 MS. CHO: Okay. So, I may -- if I may 7 ask one more question, I was just made aware actually 8 yesterday of this incident that happened and you had 9 mentioned that the inherent benefits of a church and 10 the nursing home. There is a church right across 11 from CDW, the middle school.</p> <p>12 And we were talking about -- I know 13 this is the traffic issue, but this is not a traffic, 14 this is a safety issue. There was a child who was 15 hit right outside of the church and they don't have 16 any traffic really and a child was hit.</p> <p>17 So, how would you prevent that from 18 happening when now we have the Enclave, which is 19 about over 200 units and more kids coming and walking 20 on that sidewalk now that we made it? I mean, how do 21 you --</p> <p>22 MS. PRICE: Mr. Williams -- 23 MS. CHO: Lights or crosswalks or -- 24 MR. REGAN: It's beyond the planner's 25 testimony.</p>
<p style="text-align: right;">134</p> <p>1 planner had done some -- as you say, what is that 2 drainage, the --</p> <p>3 THE WITNESS: No. 4 MS. CHO: -- water retention thing? 5 THE WITNESS: No, the site engineer. 6 MS. CHO: That's the site engineer that 7 does that?</p> <p>8 MS. PRICE: Yes. 9 MS. CHO: Okay. All right. 10 THE WITNESS: So, I apologize for any 11 confusion.</p> <p>12 What I did in my introductory comments 13 as a planner was to try and summarize what other 14 experts testified to over the course of months of 15 these hearings so that it gave context for the 16 planning arguments in support of the variance.</p> <p>17 MS. CHO: I see, okay. 18 I'm just into saving the trees and 19 trying to reduce water going into the wetlands behind 20 my basement and getting flooded, so I wanted to know 21 if you had considered.</p> <p>22 Would you be speaking with the site 23 engineer to consider, "subterranean" was the word 24 that you used for the parking space? Would you be 25 considering that at all?</p>	<p style="text-align: right;">136</p> <p>1 MS. CHO: Is that beyond the planner or 2 does the planner --</p> <p>3 MR. REGAN: It's beyond his testimony. 4 He testified extensively about the criteria for 5 variance relief.</p> <p>6 MS. PRICE: Right. Our traffic 7 engineer --</p> <p>8 MR. REGAN: Ask a question about that. 9 MS. PRICE: Right. 10 MR. ELLER: Maybe it was just a 11 confusion about what a planner does versus an 12 architect or an engineer. It sounds like it's just a 13 misunderstanding.</p> <p>14 MS. CHO: I guess because it was the 15 culmination of information that you presented in the 16 beginning and we thought that that's all you did, 17 because you said it, so we were addressing you and my 18 concern was a child that I know was hit and so how do 19 we prevent that?</p> <p>20 Have you ever thought about the 21 prevention of children being hit on that sidewalk?</p> <p>22 As you mentioned, you guys were doing a 23 lot to prevent the water flow from going to Holbrook, 24 which is only like one or two units into that street 25 and you guys are doing revisions on your plan as a</p>

<p style="text-align: right;">137</p> <p>1 planner, right?</p> <p>2 So would you be considering doing</p> <p>3 any --</p> <p>4 THE WITNESS: No --</p> <p>5 MS. CHO: Oh, it wasn't you?</p> <p>6 THE WITNESS: No.</p> <p>7 MS. CHO: I know you testified to that.</p> <p>8 THE WITNESS: But the commissioner</p> <p>9 brings up a good point. I tried to be as articulate</p> <p>10 as possible when I recapped. I mentioned each recap</p> <p>11 and category. I said the site engineer brought up</p> <p>12 these highlights, traffic expert highlighted X, Y and</p> <p>13 Z. The landscape architect highlighted A, B, C and</p> <p>14 D.</p> <p>15 So that was just to give context,</p> <p>16 because, remember, it's been several months and so</p> <p>17 some of that context gets lost in my opinion if I</p> <p>18 didn't recap it and it then gives context for my</p> <p>19 testimony.</p> <p>20 So the commissioner's point, as a</p> <p>21 professional planner my task is really to consider</p> <p>22 everything that's been done up until this point and</p> <p>23 provide support for the application in the context</p> <p>24 of, A, the state Municipal Land Use Law and, B, the</p> <p>25 local Master Plan and that's why there's been a lot</p>	<p style="text-align: right;">139</p> <p>1 all the hearings that that was going to be the case.</p> <p>2 MS. PRICE: No, the public has a right</p> <p>3 to comment.</p> <p>4 Oh, yeah, absolutely, absolutely.</p> <p>5 MR. ELLER: On the totality of the</p> <p>6 application?</p> <p>7 MS. PRICE: Absolutely, the public will</p> <p>8 have a right to come in and make all of their</p> <p>9 comments.</p> <p>10 MR. MAGGIO: Mr. Williams is done and</p> <p>11 then we -- and we're done with all of the witnesses,</p> <p>12 there will be an opportunity to come up and you can</p> <p>13 say whatever you want.</p> <p>14 MR. REGAN: It will be the public's</p> <p>15 opportunity to testify.</p> <p>16 MS. PRICE: Absolutely.</p> <p>17 MS. CHO: Okay.</p> <p>18 Thank you.</p> <p>19 CHAIRMAN WEIDMANN: Anyone else wish to</p> <p>20 be heard?</p> <p>21 Yes, sir.</p> <p>22 MR. GAMBUTI: Patrick Gambuti,</p> <p>23 16 Autumn Lane.</p> <p>24 So, I guess being it wasn't brought up,</p> <p>25 what do you actually do?</p>
<p style="text-align: right;">138</p> <p>1 of discussion about what the Master Plan says and the</p> <p>2 case law and literature.</p> <p>3 So, to the commissioner's point, I</p> <p>4 didn't design the site, that's our civil engineer. I</p> <p>5 didn't discuss -- I didn't analyze traffic or traffic</p> <p>6 conflicts or parking, that was our traffic expert</p> <p>7 that testified. I did not analyze the landscape</p> <p>8 tradeoff.</p> <p>9 We had a landscape architect that</p> <p>10 provided significant testimony about that to your</p> <p>11 point about tree removal, tree placement, et cetera.</p> <p>12 Those were all done by other experts.</p> <p>13 MS. CHO: Okay.</p> <p>14 Is there a time in this room today to</p> <p>15 ask these questions or would this be the finish?</p> <p>16 CHAIRMAN WEIDMANN: The finish is going</p> <p>17 to be next month.</p> <p>18 MS. PRICE: But, Mr. Williams --</p> <p>19 MR. MAGGIO: There will be an</p> <p>20 opportunity for the public to question the entire --</p> <p>21 MR. ELLER: All of the professionals</p> <p>22 will be there for that, correct?</p> <p>23 MS. PRICE: No, this is our -- this is</p> <p>24 our final --</p> <p>25 MR. ELLER: We told people throughout</p>	<p style="text-align: right;">140</p> <p>1 (Laughter.)</p> <p>2 MR. GAMBUTI: Because I really don't</p> <p>3 know.</p> <p>4 THE WITNESS: My parents don't even</p> <p>5 know what I do.</p> <p>6 Fortunately there were a couple of</p> <p>7 people in the audience that are planning students,</p> <p>8 that warmed my heart a little bit, but as a city</p> <p>9 planner, I'm serving as an expert witness, as an</p> <p>10 expert witness as part of this team, my job is to</p> <p>11 review the application, the site plan that is before</p> <p>12 the board, analyze it to see if there are appropriate</p> <p>13 arguments according to the state statute, which is</p> <p>14 the Municipal Land Use Law, in support of this</p> <p>15 application.</p> <p>16 So, my testimony was roughly 50 minutes</p> <p>17 long. All of that was designed to demonstrate to the</p> <p>18 board and hopefully the community that their</p> <p>19 statutorily required proofs have been met.</p> <p>20 MR. GAMBUTI: Okay.</p> <p>21 Thank you.</p> <p>22 That clears up a lot for me personally.</p> <p>23 Can I ask one more question? It's</p> <p>24 about the age thing.</p> <p>25 CHAIRMAN WEIDMANN: The what?</p>

<p style="text-align: right;">141</p> <p>1 MR. GAMBUTI: The age thing. Because</p> <p>2 you brought up 60 year old as your point of</p> <p>3 reference.</p> <p>4 So, I was just curious how many</p> <p>5 60-year-olds use assisted living facilities? Is</p> <p>6 there some kind of -- and why you would use that</p> <p>7 number, because I mean, in my mind I would think it</p> <p>8 would be like, you know, 75, 80, 85 would actually be</p> <p>9 -- and what percentage of the population in Old</p> <p>10 Tappan or the surrounding communities is of that age</p> <p>11 that would actually use the facility.</p> <p>12 THE WITNESS: So, perhaps, two</p> <p>13 questions again.</p> <p>14 One might be more appropriately or was</p> <p>15 probably more appropriately answered by the</p> <p>16 applicant's representative, Mr. McElwee going back to</p> <p>17 the first hearing where he talked about his market</p> <p>18 analysis for the site and his analysis of the</p> <p>19 demographics in general, both go hand in hand.</p> <p>20 The other question seemed to be more</p> <p>21 about how I chose my data points and all I did was</p> <p>22 look at the demographic trends provided by the Census</p> <p>23 report that I cited and it showed that there was a</p> <p>24 trend for 60 plus, I think was my testimony, to be</p> <p>25 growing at a significant rate both here in Old Tappan</p>	<p style="text-align: right;">143</p> <p>1 Everybody recognizes that.</p> <p>2 But you've -- your response to a</p> <p>3 question from the board about what should guide their</p> <p>4 decisionmaking from a prioritization level in</p> <p>5 evaluating this application.</p> <p>6 According to your interpretation of</p> <p>7 Municipal Land Use Law and the determination of</p> <p>8 inherently beneficial use of this project, is it my</p> <p>9 understanding that you recommend as a professional</p> <p>10 planner here that that -- that one element</p> <p>11 essentially be the foundational, the lynchpin as it</p> <p>12 were, the foundational aspect of their decisionmaking</p> <p>13 for proving the key issue here, which is the D-2</p> <p>14 variance.</p> <p>15 THE WITNESS: D-1.</p> <p>16 MR. CARPENTER: Oh, D-1, thank you so</p> <p>17 much.</p> <p>18 The land use variance, because this use</p> <p>19 that -- that your client is proposing is not</p> <p>20 presently permitted and that the -- this specific</p> <p>21 property is also explicitly called out as an</p> <p>22 aspirational goal in the land use -- in the Master</p> <p>23 Plan in furtherance of the goals and the spirit of</p> <p>24 the -- of the Master Plan.</p> <p>25 So, is it your estimation that that one</p>
<p style="text-align: right;">142</p> <p>1 and in Bergen County.</p> <p>2 I would argue that's something we are</p> <p>3 seeing in other municipalities as well throughout the</p> <p>4 State of New Jersey.</p> <p>5 MR. GAMBUTI: Right.</p> <p>6 So, I guess then -- but what -- so</p> <p>7 that's 60 plus, so then we're talking more about the</p> <p>8 future than what the need is today.</p> <p>9 THE WITNESS: No, no, the testimony was</p> <p>10 if you looked at 2019, for example, the increase in</p> <p>11 2019 from 2010 was significant and if we go even</p> <p>12 further, my submission to you would be that it just</p> <p>13 keeps growing, but my data points were from 2010 to</p> <p>14 2019.</p> <p>15 MR. GAMBUTI: Okay.</p> <p>16 Thank you.</p> <p>17 THE WITNESS: Yup.</p> <p>18 CHAIRMAN WEIDMANN: Anyone else wish to</p> <p>19 be heard?</p> <p>20 You've spoken already.</p> <p>21 Yes.</p> <p>22 MR. CARPENTER: Kurt Carpenter,</p> <p>23 168 Central Avenue, Old Tappan.</p> <p>24 Mr. Williams, that was a very</p> <p>25 informative presentation. I appreciate that.</p>	<p style="text-align: right;">144</p> <p>1 specific -- the inherently beneficial use of this</p> <p>2 function should supercede both the Master Plan and</p> <p>3 the actual present zoning law and the -- the zoning</p> <p>4 of this property and would basically unlock the</p> <p>5 project?</p> <p>6 THE WITNESS: It's a good question.</p> <p>7 There was a lot in there, so give me a second to try</p> <p>8 and parse it.</p> <p>9 No, it doesn't supercede the Master</p> <p>10 Plan and I don't think you or anyone else should look</p> <p>11 at it as an either/or or zero sum, that's not how the</p> <p>12 land use is set up.</p> <p>13 But to your point about why did I</p> <p>14 choose to say inherently -- the status of this use as</p> <p>15 inherently beneficial being so important requires,</p> <p>16 perhaps, a little bit of scenario playing, right?</p> <p>17 So, if you were proposing a -- I'm</p> <p>18 going to exaggerate to make a point -- a prison,</p> <p>19 which may not have inherently beneficial status, the</p> <p>20 requirements to meet the proofs are exponentially</p> <p>21 greater, because it's not inherently beneficial.</p> <p>22 You heard me mention in my testimony</p> <p>23 there's an enhanced quality of proof when it's not</p> <p>24 inherently beneficial. That's jargon, but what it</p> <p>25 really means is the board deliberation requires a</p>

<p style="text-align: right;">145</p> <p>1 higher standard of proof.</p> <p>2 I went through my testimony to explain</p> <p>3 what the state defines inherently beneficial, as what</p> <p>4 the courts define it as and they give it a less</p> <p>5 stringent view entirely because it benefits the</p> <p>6 general public and that's why I think that's so</p> <p>7 important, because it's different than, you know, I</p> <p>8 want to put in a -- you know, an amusement park</p> <p>9 because it's going to benefit me.</p> <p>10 The inherently beneficial use is</p> <p>11 something whose benefit accrues to the larger</p> <p>12 community as opposed to just the developer.</p> <p>13 MR. CARPENTER: And that is what would</p> <p>14 justify the use variance as opposed to, for example,</p> <p>15 staying within the same -- the approved use of</p> <p>16 single-family, right, that lot could theoretically</p> <p>17 come before the board as a subdivision or request,</p> <p>18 hey, I'd like to subdivide into five properties or</p> <p>19 whatever, four properties, still staying within the</p> <p>20 use and you're saying that this scenario here would</p> <p>21 be -- the use of this property, right, in this</p> <p>22 function would supercede even that scenario?</p> <p>23 THE WITNESS: No.</p> <p>24 So, I would encourage you not to think</p> <p>25 of superseding, because that's just not how the land</p>	<p style="text-align: right;">147</p> <p>1 thought you had the wherewithal to deal with all the</p> <p>2 environmental constraints, you would go to this board</p> <p>3 functioning as the planning board and submit your</p> <p>4 application, get approved or denied.</p> <p>5 We came with ours and we'll hopefully</p> <p>6 get approved, but the board has to basically look at</p> <p>7 each application based on their singular or</p> <p>8 individual merit, but it's not superceded.</p> <p>9 MR. CARPENTER: All right. Thank you</p> <p>10 very much.</p> <p>11 CHAIRMAN WEIDMANN: Any other</p> <p>12 questions?</p> <p>13 Yes.</p> <p>14 MR. ARDITO: Peter Ardito, Harrington</p> <p>15 Park.</p> <p>16 I'll make this very simple, is there</p> <p>17 ever a case where undeveloped land would be equal in</p> <p>18 stature for inherent beneficial use as opposed to</p> <p>19 development, in this case, inherent beneficial use</p> <p>20 for a senior center? Is there ever a case where</p> <p>21 there would be an equal importance for preserving a</p> <p>22 piece of property?</p> <p>23 THE WITNESS: So, there may be -- I'm</p> <p>24 not sure I understand the question 100 percent.</p> <p>25 Does the Municipal Land Use Law include</p>
<p style="text-align: right;">146</p> <p>1 use -- I think I'm going to answer the question.</p> <p>2 MR. CARPENTER: Okay.</p> <p>3 THE WITNESS: That's not how the land</p> <p>4 use law is designed.</p> <p>5 And I would submit to you that the New</p> <p>6 Jersey land use law is just genius. They thought</p> <p>7 about everything.</p> <p>8 So, a permitted use could come to the</p> <p>9 land use board and seek approval, that's one</p> <p>10 scenario.</p> <p>11 The scenario before us today is this</p> <p>12 application for a use variance and the inherently</p> <p>13 beneficial standing is one of the criteria for</p> <p>14 deliberating about the application.</p> <p>15 Remember, I mentioned its inherently</p> <p>16 beneficial uses, purposes of zoning being advanced,</p> <p>17 particular suitability and the undo hardship.</p> <p>18 So, the board's got to sift through all</p> <p>19 of those indices and make a decision based on all of</p> <p>20 the testimony they've received over the months and</p> <p>21 your input to see if as an inherently beneficial use</p> <p>22 does it meet the test that's outlined by that court</p> <p>23 case that I mentioned, but they're not superceded.</p> <p>24 If you want to come tomorrow -- last</p> <p>25 year and make a proposal for a permitted use and</p>	<p style="text-align: right;">148</p> <p>1 in its characterization of inherently beneficial use</p> <p>2 undeveloped lands? I would argue no.</p> <p>3 Is there a value to undeveloped land?</p> <p>4 The answer would be yes.</p> <p>5 MR. ARDITO: Thank you.</p> <p>6 MR. ELLER: So, there's no</p> <p>7 classification of a park or anything like that as</p> <p>8 inherently beneficial?</p> <p>9 MR. REGAN: The definition in the MLUL</p> <p>10 of inherently beneficial doesn't include a park.</p> <p>11 MS. PRICE: No.</p> <p>12 THE WITNESS: And that could be in</p> <p>13 part, Commissioner, because it's public land, right,</p> <p>14 as opposed to private development.</p> <p>15 CHAIRMAN WEIDMANN: Yes, ma'am.</p> <p>16 MS. COSTA: Hello again, everyone.</p> <p>17 THE WITNESS: Hello again.</p> <p>18 MS. COSTA: I don't know, should I be</p> <p>19 -- like I have a lot of questions.</p> <p>20 Is it okay if I read them all or should</p> <p>21 I be sworn in as a professional on history and</p> <p>22 archaeology?</p> <p>23 Sorry, I'm not a urban planning</p> <p>24 student.</p> <p>25 MR. REGAN: If you're going to testify,</p>

<p style="text-align: right;">149</p> <p>1 the appropriate time would be at next month's</p> <p>2 meeting.</p> <p>3 MS. COSTA: Okay. Is it okay if I just</p> <p>4 read -- I have a lot of questions, so is it okay if</p> <p>5 --</p> <p>6 MR. REGAN: Questions to the planner?</p> <p>7 MS. COSTA: Yes.</p> <p>8 MS. PRICE: For this witness?</p> <p>9 MS. COSTA: Yes, yes.</p> <p>10 MS. PRICE: Just on planning testimony?</p> <p>11 MS. COSTA: Yes.</p> <p>12 I don't know if it's relevant, but I</p> <p>13 have a master's in archaeology, history and the</p> <p>14 classics from the University of Edinburgh. I've</p> <p>15 worked at sites such as the Roman Colosseum. I've</p> <p>16 worked at -- on the Battlefields of Gettysburg. I've</p> <p>17 done extensive archaeological digs. I've worked for</p> <p>18 Earls of Scotland, actually who -- the Hope family</p> <p>19 who the diamond is named after.</p> <p>20 I've done a lot of work abroad, but</p> <p>21 I've also done a lot of local history. I worked for</p> <p>22 the state at the Palisades Interstate Park as a</p> <p>23 historic interpreter.</p> <p>24 So, if I lead with a statement, I</p> <p>25 promise you it will be a question; is that okay?</p>	<p style="text-align: right;">151</p> <p>1 So, I'll just ask some questions then,</p> <p>2 but that was something that I wanted to correct</p> <p>3 because earlier folks had said that it --</p> <p>4 MS. PRICE: We're back on, we're back</p> <p>5 on.</p> <p>6 MS. COSTA: Anyway, what cultural value</p> <p>7 do you place on the property itself?</p> <p>8 THE WITNESS: I did not.</p> <p>9 MS. COSTA: I mean, we just had</p> <p>10 questions about, you know, like, obviously, you're</p> <p>11 valuing the, you know --</p> <p>12 MS. PRICE: I think he answered the</p> <p>13 question. He said, "I did not."</p> <p>14 MS. COSTA: No, this was actually one</p> <p>15 of the first questions asked. I'm going off of that.</p> <p>16 MR. REGAN: He answered your question.</p> <p>17 Next question.</p> <p>18 MS. PRICE: Yeah, next question.</p> <p>19 MS. COSTA: Okay.</p> <p>20 But he is agreeing that the value is</p> <p>21 placed on the facility, not the --</p> <p>22 MR. REGAN: He answered your question.</p> <p>23 You don't need to editorial it, just ask the</p> <p>24 question.</p> <p>25 MS. COSTA: Okay.</p>
<p style="text-align: right;">150</p> <p>1 MS. PRICE: This has to 100 percent go</p> <p>2 on George's testimony.</p> <p>3 MS. COSTA: It does, don't worry.</p> <p>4 MS. PRICE: No leading, no leading with</p> <p>5 any statements. It has to just be a question on the</p> <p>6 planning --</p> <p>7 MS. COSTA: I also -- I also wanted to</p> <p>8 take this opportunity to just note that the removal</p> <p>9 of this house from the specific site does actually</p> <p>10 pose a detriment in the case of --</p> <p>11 MS. PRICE: That's testimony.</p> <p>12 MR. REGAN: Now you're getting involved</p> <p>13 in testimony.</p> <p>14 MS. PRICE: Now you're giving</p> <p>15 testimony.</p> <p>16 MS. COSTA: -- grants, potential grants</p> <p>17 for the 250th.</p> <p>18 MS. PRICE: All right. We're going off</p> <p>19 --</p> <p>20 MS. COSTA: I'm also on that council.</p> <p>21 MS. PRICE: -- going off the topic.</p> <p>22 MS. COSTA: I'm sorry.</p> <p>23 MR. REGAN: This is the time for</p> <p>24 questions.</p> <p>25 MS. COSTA: Okay.</p>	<p style="text-align: right;">152</p> <p>1 Does this development get less -- more</p> <p>2 or less valuable on the specific property?</p> <p>3 THE WITNESS: I'm sorry, does what?</p> <p>4 MS. COSTA: Does this development, does</p> <p>5 it get more or less valuable on this specific</p> <p>6 property --</p> <p>7 MR. REGAN: He didn't talk about</p> <p>8 economic value.</p> <p>9 MS. PRICE: No, yeah.</p> <p>10 MR. REGAN: That's irrelevant --</p> <p>11 MS. COSTA: No, no, no, not economic</p> <p>12 value, value to the community, because, you know,</p> <p>13 we've talked about other lots and everything.</p> <p>14 MS. PRICE: I don't think this witness</p> <p>15 opined on value to the community --</p> <p>16 MS. COSTA: That's -- let's see, larger</p> <p>17 community benefit.</p> <p>18 (Audience Outburst.)</p> <p>19 MS. PRICE: Wait a second, wait a</p> <p>20 second, everybody yelling.</p> <p>21 He didn't testify as to value on this</p> <p>22 property versus other properties, that was my</p> <p>23 statement.</p> <p>24 MS. COSTA: I'm sorry, I -- replace</p> <p>25 that word with another word, benefit.</p>

<p style="text-align: right;">153</p> <p>1 THE WITNESS: I'm sorry, so what's the</p> <p>2 question now?</p> <p>3 MS. COSTA: Does this development get</p> <p>4 more or less beneficial on this specific property or,</p> <p>5 you know, the same value for the town on another</p> <p>6 property?</p> <p>7 THE WITNESS: I'm not sure I understand</p> <p>8 the question, but I assume you don't mean real estate</p> <p>9 value.</p> <p>10 MS. COSTA: Yeah, I'm talking about</p> <p>11 everything that you've spoken about as benefits to</p> <p>12 the Master Plan and everything.</p> <p>13 THE WITNESS: So, the inherently</p> <p>14 beneficial status travels with the use.</p> <p>15 So, no matter where it's located, you</p> <p>16 would hear me argue that it's inherently beneficial.</p> <p>17 MS. COSTA: Okay.</p> <p>18 So, it's not the property, itself.</p> <p>19 THE WITNESS: It's the use. And it's</p> <p>20 specific to a use variance and, again, that value is</p> <p>21 not real estate value, it's the value to the</p> <p>22 community.</p> <p>23 MS. COSTA: Right, and that's like</p> <p>24 invaluable, right, you know, like you can't really</p> <p>25 put a price on it.</p>	<p style="text-align: right;">155</p> <p>1 MS. PRICE: That's what the objection</p> <p>2 is for.</p> <p>3 MS. COSTA: Yeah, okay.</p> <p>4 Are you aware that most archaeology</p> <p>5 happens in the first 5 feet of the site.</p> <p>6 MS. PRICE: I'm going to object.</p> <p>7 MR. REGAN: He's not an archaeologist.</p> <p>8 MS. PRICE: Yeah, he's not an</p> <p>9 archaeologist.</p> <p>10 MS. COSTA: That's okay. I am, but --</p> <p>11 MS. PRICE: I'm going to --</p> <p>12 MS. COSTA: Do you think that the</p> <p>13 community will benefit from \$26 million worth,</p> <p>14 because you said that that is the amount that this</p> <p>15 property development will be? Do you think it is</p> <p>16 equivalent?</p> <p>17 MS. PRICE: The citation to the value</p> <p>18 was out of the Certificate of Need.</p> <p>19 MS. COSTA: Or instead is this an</p> <p>20 investment by a corporation? Is it actually paying</p> <p>21 off for the community, is what I'm saying?</p> <p>22 MR. REGAN: That has nothing --</p> <p>23 economics has nothing to do with this application.</p> <p>24 MS. COSTA: Okay. But he did say \$26</p> <p>25 million from --</p>
<p style="text-align: right;">154</p> <p>1 Going off of that, what value do urban</p> <p>2 planners, such as yourself in this situation, place</p> <p>3 on archaeological possibilities? Especially</p> <p>4 artifacts from indigenous nations, enslaved people or</p> <p>5 free black Americans who in the 1840s did work on</p> <p>6 this property.</p> <p>7 MS. PRICE: That's outside the scope of</p> <p>8 --</p> <p>9 MR. REGAN: We haven't heard any</p> <p>10 testimony throughout --</p> <p>11 MS. PRICE: Right, no historic</p> <p>12 testimony has gone on the record.</p> <p>13 MS. COSTA: Well, from previous</p> <p>14 testimony there is no archaeological survey about the</p> <p>15 happen.</p> <p>16 MS. PRICE: No, there's nothing in the</p> <p>17 record.</p> <p>18 MR. REGAN: It's not required.</p> <p>19 MS. COSTA: Okay.</p> <p>20 Yeah, but, you know, I'm free to ask.</p> <p>21 If he wants to answer or not, that's okay.</p> <p>22 MS. PRICE: No, there's nothing in the</p> <p>23 record, so --</p> <p>24 MS. COSTA: So, then you pass on the</p> <p>25 question, that's okay.</p>	<p style="text-align: right;">156</p> <p>1 MR. REGAN: Again, it's on A-22, the</p> <p>2 Certificate of Need.</p> <p>3 MS. COSTA: Yeah, but it's part of his</p> <p>4 testimony, right?</p> <p>5 MS. PRICE: And he referred</p> <p>6 specifically to the exhibit A-22, the Certificate of</p> <p>7 Need. He wasn't opining on cost and value.</p> <p>8 MS. COSTA: Yeah, but we're talking</p> <p>9 about invaluable benefits.</p> <p>10 So do you think that although obviously</p> <p>11 invaluable means that you can't put a number on it,</p> <p>12 do you think like, you know, the investment is for</p> <p>13 the town.</p> <p>14 THE WITNESS: My testimony was in part</p> <p>15 that the amount included a reference in the</p> <p>16 Certificate of Need speaks to this client, this</p> <p>17 applicant's commitment to providing quality housing</p> <p>18 and quality housing products.</p> <p>19 And then I went on to say, in addition</p> <p>20 to that number referenced in the Certificate of Need,</p> <p>21 how this applicant has gone above and beyond to do</p> <p>22 improvements that are not triggered by this</p> <p>23 application, but were part of board discussions and</p> <p>24 community discussions, at their own expense. And</p> <p>25 that's where I was going with that.</p>

<p style="text-align: right;">157</p> <p>1 MS. COSTA: All right.</p> <p>2 Thank you.</p> <p>3 Okay. So, are you aware that this</p> <p>4 historic house, which you have mentioned and, you</p> <p>5 know, we've talked about, like, the importance of</p> <p>6 history involved in this, are you aware that this</p> <p>7 historic house will lose all ability to receive</p> <p>8 funding nationally and at state level --</p> <p>9 MS. PRICE: Okay, he didn't testify to</p> <p>10 anything --</p> <p>11 MR. REGAN: He hasn't testified to</p> <p>12 that.</p> <p>13 MS. COSTA: He did.</p> <p>14 MS. PRICE: No.</p> <p>15 MS. COSTA: He testified that there was</p> <p>16 no impact to this house if it was moved.</p> <p>17 MS. PRICE: No.</p> <p>18 MS. COSTA: The impact is no longer</p> <p>19 able to take grants.</p> <p>20 MR. REGAN: He didn't testify about</p> <p>21 grants.</p> <p>22 MS. COSTA: Yeah, but that's okay.</p> <p>23 MS. PRICE: I'm objecting.</p> <p>24 I'm --</p> <p>25 MS. COSTA: I'm asking if he's aware.</p>	<p style="text-align: right;">159</p> <p>1 So cultural value, would you place any</p> <p>2 sort of cultural value of the highest point of Old</p> <p>3 Tappan -- I'm sorry -- would you place cultural value</p> <p>4 on the highest point of Old Tappan because this is a</p> <p>5 mountaintop removal project?</p> <p>6 MS. PRICE: Same objection.</p> <p>7 No testimony --</p> <p>8 MR. REGAN: Objection sustained.</p> <p>9 Next question.</p> <p>10 MS. COSTA: So, you said that this</p> <p>11 property was, quote, appropriate for a use, but is it</p> <p>12 exceptional for a use?</p> <p>13 MS. PRICE: Same objection.</p> <p>14 MR. REGAN: The question is vague and</p> <p>15 ambiguous.</p> <p>16 MS. COSTA: It's not, it's quoting him</p> <p>17 directly.</p> <p>18 THE WITNESS: What was my quote?</p> <p>19 MS. COSTA: Your quote was, this land</p> <p>20 is appropriate for use, end quote.</p> <p>21 THE WITNESS: Correct, that part I</p> <p>22 stand by.</p> <p>23 MS. COSTA: But do you think that this</p> <p>24 site is exceptional for use as this facility?</p> <p>25 MR. REGAN: He didn't testify</p>
<p style="text-align: right;">158</p> <p>1 MS. PRICE: I'm going to --</p> <p>2 MR. REGAN: The question is irrelevant.</p> <p>3 MS. PRICE: -- level an objection across</p> <p>4 the board --</p> <p>5 MS. COSTA: All right.</p> <p>6 MS. PRICE: -- there's testimony --</p> <p>7 MS. COSTA: Are you aware that --</p> <p>8 MS. PRICE: There's testimony coming in</p> <p>9 -- there's testimony coming in on the question that</p> <p>10 has nothing do with Mr. Williams' testimony.</p> <p>11 MR. REGAN: It was mostly related to</p> <p>12 the criteria for variance relief.</p> <p>13 MS. PRICE: Right.</p> <p>14 MR. ELLER: You may be better off with</p> <p>15 these at the next meeting.</p> <p>16 MS. COSTA: I mean, he can always pass</p> <p>17 on any question, like feel free.</p> <p>18 MR. ELLER: Rather than just wasting</p> <p>19 your time where these aren't things that he can</p> <p>20 answer.</p> <p>21 MS. COSTA: It's okay, like, I'm</p> <p>22 actually curious, like, he seems very knowledgeable.</p> <p>23 So, if he can answer any of these,</p> <p>24 that's awesome. I don't think that these questions</p> <p>25 are meaningless, but okay.</p>	<p style="text-align: right;">160</p> <p>1 exceptional.</p> <p>2 THE WITNESS: Right.</p> <p>3 And I would just offer from a planning</p> <p>4 perspective based on the Municipal Land Use Law,</p> <p>5 that's not the standard and a question was asked in a</p> <p>6 different way by someone else and I mentioned in my</p> <p>7 testimony there was a court case that says we don't</p> <p>8 have to prove that there is an exceptional site. The</p> <p>9 application before this board and this community is</p> <p>10 for what's been presented and so part of my analysis</p> <p>11 would never be in this context, are there exceptional</p> <p>12 or other exceptional sites.</p> <p>13 MS. COSTA: Yeah, because you also said</p> <p>14 that the site was specifically fitted for certain</p> <p>15 reasons. You know, what reasons are there that this</p> <p>16 site is specifically fitted for this specific</p> <p>17 purpose?</p> <p>18 THE WITNESS: Actually, I testified</p> <p>19 that the special reasons are inherently beneficial,</p> <p>20 advances the purposes of zoning, particular</p> <p>21 suitability and undue hardship and I said that our</p> <p>22 focus was on the first two, inherently beneficial and</p> <p>23 advances the purposes of zoning.</p> <p>24 So, my testimony went through the</p> <p>25 description of why it's inherently beneficial and</p>

<p style="text-align: right;">161</p> <p>1 what that meant and the <u>Sica</u> test, the four-prong</p> <p>2 test and then what purposes of zoning specially it</p> <p>3 advanced.</p> <p>4 MS. COSTA: Is this facility -- would</p> <p>5 this facility be favorable to a community without</p> <p>6 anything having to do with COAH or any sort of</p> <p>7 low-income housing requirements?</p> <p>8 THE WITNESS: I'm not sure I understand</p> <p>9 that question.</p> <p>10 MS. COSTA: So, a lot of the reasons</p> <p>11 why this is a beneficial structure is actually due</p> <p>12 to, you know, COAH and like, you know, land use for</p> <p>13 affordable housing. It sort of checks a few boxes</p> <p>14 like that.</p> <p>15 So would this facility still be</p> <p>16 beneficial in the same level it would be that it</p> <p>17 checks off COAH.</p> <p>18 THE WITNESS: So, just keep in mind</p> <p>19 that the inherently beneficial label is a term of art</p> <p>20 and I would argue based on all of the testimony I've</p> <p>21 given thus far, yes, it would still be inherently</p> <p>22 beneficial, because senior housing, senior living</p> <p>23 accommodations have been deemed to be inherently</p> <p>24 beneficial.</p> <p>25 MS. COSTA: But, you know, as we've</p>	<p style="text-align: right;">163</p> <p>1 just one more page.</p> <p>2 MR. REGAN: You've had more time for</p> <p>3 questioning than any other member of the public.</p> <p>4 MS. COSTA: Does anyone else have any</p> <p>5 more questions?</p> <p>6 I'd be happy to step down.</p> <p>7 CHAIRMAN WEIDMANN: Ma'am? Ma'am?</p> <p>8 MR. REGAN: They don't run the meeting,</p> <p>9 the board does.</p> <p>10 MS. COSTA: Okay.</p> <p>11 Does anyone have any more questions?</p> <p>12 Because I'm very happy to step down until everyone</p> <p>13 gets their turn.</p> <p>14 MR. REGAN: Ask your next question,</p> <p>15 please.</p> <p>16 MS. COSTA: All right.</p> <p>17 Have you considered the current insect</p> <p>18 mass die-off predominantly due to overdevelopment</p> <p>19 when weighing if a site is beneficial after forest</p> <p>20 clearing.</p> <p>21 MS. PRICE: Objection, objection.</p> <p>22 MR. REGAN: Beyond his testimony.</p> <p>23 MS. COSTA: Okay. I've asked, like,</p> <p>24 the civil engineer these same questions, don't worry,</p> <p>25 it's okay.</p>
<p style="text-align: right;">162</p> <p>1 agreed not necessarily on the specific location, it</p> <p>2 can be anywhere as you've said, we agreed like a</p> <p>3 question or two.</p> <p>4 Is this structure beneficial -- bah,</p> <p>5 bah, bah, bah, bah, sorry.</p> <p>6 Do urban planners place value, like,</p> <p>7 you know, value from a community to cultural and</p> <p>8 historic places?</p> <p>9 MS. PRICE: He hasn't testified to any</p> <p>10 of this.</p> <p>11 MR. REGAN: He didn't mention cultural</p> <p>12 in any of his testimony.</p> <p>13 MS. COSTA: He did.</p> <p>14 MS. PRICE: No cultural. And I think</p> <p>15 you already asked that question and I objected on a</p> <p>16 cultural basis.</p> <p>17 MR. REGAN: She objected to the</p> <p>18 question.</p> <p>19 I think the objection should be</p> <p>20 sustained.</p> <p>21 Next question.</p> <p>22 MS. COSTA: Okay.</p> <p>23 CHAIRMAN WEIDMANN: Ma'am, how many</p> <p>24 more questions?</p> <p>25 MS. COSTA: Just a few, don't worry,</p>	<p style="text-align: right;">164</p> <p>1 MS. PRICE: There's --</p> <p>2 MS. COSTA: Everyone objects to them,</p> <p>3 it's fine.</p> <p>4 MS. PRICE: This kind of colloquy --</p> <p>5 this kind of colloquy really I'm going to ask that it</p> <p>6 be stricken from the record, because it really is not</p> <p>7 representative of --</p> <p>8 MR. REGAN: Your objection is noted. I</p> <p>9 don't think it has any relevance and I doubt it will</p> <p>10 be given consideration.</p> <p>11 Ask your next question, please.</p> <p>12 MS. COSTA: I've asked this of many of</p> <p>13 the people stepping up here. Have you considered</p> <p>14 threatened species, such as the eastern box turtle,</p> <p>15 salamanders --</p> <p>16 MR. REGAN: He didn't testify about</p> <p>17 species.</p> <p>18 MS. PRICE: The same objection.</p> <p>19 MS. COSTA: He talked about</p> <p>20 environmental impact.</p> <p>21 MR. REGAN: He didn't talk about</p> <p>22 species.</p> <p>23 MS. COSTA: Okay. He talked about</p> <p>24 trees and the ground.</p> <p>25 MR. REGAN: Please ask your next</p>

<p style="text-align: right;">165</p> <p>1 question.</p> <p>2 MR. COSTA: How do you judge statements</p> <p>3 by your colleagues to be beneficial? You noted that</p> <p>4 they're creative and responsive. One quote in</p> <p>5 particular that says, with all due respect, once the</p> <p>6 water leaves our property, it is not our problem.</p> <p>7 MS. PRICE: Mr. Williams didn't refer</p> <p>8 to anything resembling that quote in his testimony.</p> <p>9 FEMALE AUDIENCE MEMBER: He did say</p> <p>10 that.</p> <p>11 MS. PRICE: No, Mr. Williams didn't.</p> <p>12 MS. COSTA: He said creative and</p> <p>13 responsive and he --</p> <p>14 MR. REGAN: He indicated he reviewed</p> <p>15 certain testimony of other witnesses. He didn't</p> <p>16 specifically talk about that.</p> <p>17 MS. PRICE: Right, he didn't talk about</p> <p>18 that.</p> <p>19 MS. COSTA: Also, you have intimidated</p> <p>20 folks coming from other towns demanding to know why</p> <p>21 they were there.</p> <p>22 MS. PRICE: Who was intimidated?</p> <p>23 MS. COSTA: You have.</p> <p>24 MR. ALESSI: Is that a question?</p> <p>25 MS. COSTA: This is part of the same</p>	<p style="text-align: right;">167</p> <p>1 MS. PRICE: I have one question.</p> <p>2 REDIRECT EXAMINATION</p> <p>3 BY MS. PRICE:</p> <p>4 Q. Mr. Williams, you said that the use</p> <p>5 travels and goes to any property. This particular</p> <p>6 inherently beneficial use is tied to this property</p> <p>7 and this site plan.</p> <p>8 Is it your opinion that this site --</p> <p>9 this use could just go to any other site in Old</p> <p>10 Tappan, because I think that's what I heard?</p> <p>11 MR. REGAN: It's not transferable.</p> <p>12 THE WITNESS: Yeah, no, no.</p> <p>13 MR. REGAN: The approvals run with the</p> <p>14 land.</p> <p>15 MS. PRICE: Right.</p> <p>16 THE WITNESS: Correct.</p> <p>17 BY MS. PRICE:</p> <p>18 Q. With this particular land?</p> <p>19 A. Correct.</p> <p>20 Q. It runs with, not other sites?</p> <p>21 A. Correct.</p> <p>22 MS. PRICE: Okay. I just wanted to get</p> <p>23 that clarified for the record.</p> <p>24 CHAIRMAN WEIDMANN: Okay. This</p> <p>25 concludes the testimony of the planner.</p>
<p style="text-align: right;">166</p> <p>1 questions.</p> <p>2 MR. REGAN: These comments are</p> <p>3 improper, ma'am.</p> <p>4 You're going to ask your next question</p> <p>5 and then you're going to be concluded.</p> <p>6 MS. COSTA: All right. Is this a</p> <p>7 facility for predominately a -- sorry.</p> <p>8 Is this a facility for predominately</p> <p>9 lower class people?</p> <p>10 MS. PRICE: I'm going to object and</p> <p>11 that's actually reprehensible.</p> <p>12 MR. REGAN: That's really an improper</p> <p>13 question.</p> <p>14 MS. PRICE: That's reprehensible that</p> <p>15 that question is asked here in this forum.</p> <p>16 MR. REGAN: Ma'am, I think you're done.</p> <p>17 See if anyone else --</p> <p>18 MS. COSTA: Oh, well, I apologize if</p> <p>19 I've caused any offense.</p> <p>20 I have asked very similar questions to</p> <p>21 the civil engineer and others, so I don't know why</p> <p>22 it's so offensive this time.</p> <p>23 CHAIRMAN WEIDMANN: Does anyone else</p> <p>24 wish to be heard?</p> <p>25 (No response.)</p>	<p style="text-align: right;">168</p> <p>1 MR. REGAN: Do you have any further</p> <p>2 witnesses?</p> <p>3 MS. PRICE: No, no other witnesses.</p> <p>4 MR. REGAN: Mr. Steinhagen --</p> <p>5 MR. STEINHAGEN: Well, just subject to</p> <p>6 our agreement. It doesn't necessarily conclude</p> <p>7 Mr. Williams.</p> <p>8 MS. PRICE: Well, yeah, subject to the</p> <p>9 agreement with Mr. Steinhagen.</p> <p>10 MR. STEINHAGEN: Thank you.</p> <p>11 MR. REGAN: You have no further</p> <p>12 witnesses?</p> <p>13 MS. PRICE: No.</p> <p>14 Unless I have to do something on</p> <p>15 rebuttal, but I don't anticipate --</p> <p>16 MR. REGAN: Make it clear then that the</p> <p>17 December 14th meeting will be the opportunity for the</p> <p>18 public to testify and they can present any witnesses</p> <p>19 and testify in connection with the issues on this</p> <p>20 application.</p> <p>21 Hopefully we can bring this matter to a</p> <p>22 conclusion, because we're way out of time under the</p> <p>23 statute for rendering a decision.</p> <p>24 MS. PRICE: Right.</p> <p>25 MR. REGAN: I think if we carry this</p>

<p style="text-align: right;">169</p> <p>1 into the new year there's risk that the board may not</p> <p>2 have the seven members needed to vote on a use</p> <p>3 variance application, number one.</p> <p>4 Number two --</p> <p>5 (Audience Outburst.)</p> <p>6 THE COURT REPORTER: I'm sorry, I can't</p> <p>7 hear with the public speaking.</p> <p>8 MR. REGAN: I'm sorry.</p> <p>9 CHAIRMAN WEIDMANN: The public.</p> <p>10 THE COURT REPORTER: Yes.</p> <p>11 MR. REGAN: The concern I have is that</p> <p>12 the board may not be -- have the composition with</p> <p>13 seven members qualified to vote on the application in</p> <p>14 the new year.</p> <p>15 And in addition, we have the time</p> <p>16 constraints. Under the MLUL we're way past the time</p> <p>17 for rendering a decision on this application.</p> <p>18 MR. SKRABLE: Gail, are you willing to</p> <p>19 share the drainage agreement assuming it moves</p> <p>20 forward?</p> <p>21 I know you mentioned sharing it with</p> <p>22 Bob.</p> <p>23 MR. REGAN: It will be an exhibit.</p> <p>24 MS. PRICE: Oh, yes. Yes, that will be</p> <p>25 --</p>	<p style="text-align: right;">171</p> <p>1 statute and we've granted a bunch of extensions.</p> <p>2 MR. ELLER: My concern is, obviously,</p> <p>3 you guys have an agreement, that's great, but we</p> <p>4 still want to see Tom's opinion of it, because</p> <p>5 there's other properties in other parts of town.</p> <p>6 MS. PRICE: No, absolutely.</p> <p>7 CHAIRMAN WEIDMANN: Okay. Ladies and</p> <p>8 gentlemen, you know, get on your computers and Tweets</p> <p>9 and let everybody know, next meeting is the last</p> <p>10 meeting for this application.</p> <p>11 So, if anybody has anything they want</p> <p>12 to say, be here December 14th at 7 p.m., because it's</p> <p>13 not going to be extended. It's impossible to be</p> <p>14 extended.</p> <p>15 Okay. Anything else?</p> <p>16 THE WITNESS: Thank you, Commissioners.</p> <p>17 MR. STEINHAGEN: The applicant extends</p> <p>18 the time, I assume?</p> <p>19 MR. ALESSI: Motion to open the</p> <p>20 non-agenda items.</p> <p>21 MR. STEINHAGEN: Bob, you extended it?</p> <p>22 MS. PRICE: I'll talk to Bob. We're</p> <p>23 only extending to the --</p> <p>24 MR. STEINHAGEN: To the 14th, yeah,</p> <p>25 that's fine, just as long as it's on the record.</p>
<p style="text-align: right;">170</p> <p>1 MR. STEINHAGEN: You'll be aware of it.</p> <p>2 MR. REGAN: We'll mark it as an</p> <p>3 exhibit.</p> <p>4 MS. PRICE: That's not a problem.</p> <p>5 MR. SKRABLE: Because I'm going to be</p> <p>6 out of commission. I'm having an operation. I'm not</p> <p>7 going to be available.</p> <p>8 MR. ELLER: So at least before the next</p> <p>9 meeting so that he can give us an idea of what --</p> <p>10 MR. STEINHAGEN: The goal is to have it</p> <p>11 written and adopted subject to -- I mean, by the</p> <p>12 board and the applicant.</p> <p>13 MS. PRICE: Yeah.</p> <p>14 MR. REGAN: That would be great.</p> <p>15 MR. BEDIAN: Maybe a few days before</p> <p>16 the meeting?</p> <p>17 MR. STEINHAGEN: Sure.</p> <p>18 MS. PRICE: Oh, yeah.</p> <p>19 MR. STEINHAGEN: We can always try.</p> <p>20 MS. PRICE: So it's -- yes, it's our</p> <p>21 hope --</p> <p>22 MR. STEINHAGEN: And if not, we'll put</p> <p>23 it on the record.</p> <p>24 MS. PRICE: -- that everything is</p> <p>25 concluded because we are way out of time on the</p>	<p style="text-align: right;">172</p> <p>1 MS. PRICE: We'll extend.</p> <p>2 MR. STEINHAGEN: There's an extension</p> <p>3 on the record?</p> <p>4 MS. PRICE: Yes.</p> <p>5 (Whereupon, this matter will be</p> <p>6 continuing at a future date. Time noted:</p> <p>7 10:16 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

C E R T I F I C A T E

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #50094914, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.



LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #50094914, Notary
Expiration Date December 3, 2023

Dated: November 16, 2022

#	16 [5] - 3:24, 4:5, 106:24, 131:17, 139:23 1606 [2] - 1:6, 14:19 165 [5] - 75:2, 86:9, 86:10, 89:2, 90:5 167 [1] - 3:4 168 [2] - 4:6, 142:23 18 [1] - 7:10 18.1 [1] - 35:11 1840s [1] - 154:5 1997 [1] - 105:8	3.4 [1] - 43:13 30 [6] - 10:15, 23:12, 24:7, 43:4, 45:20, 46:13 31 [1] - 2:11 33-05 [2] - 3:20, 112:18 33.4 [2] - 23:14, 43:5 34-feet-5-inches [1] - 23:23 34.5 [1] - 44:10 35 [3] - 23:20, 44:9, 73:10 37.1 [2] - 24:8, 46:12 380 [1] - 2:5 3rd [1] - 7:9	62 [1] - 3:8 62.2 [2] - 24:3, 45:5 63 [1] - 3:6 64 [1] - 3:9 66 [1] - 3:9 68 [1] - 3:10	8:22 ability [7] - 37:21, 48:19, 67:1, 69:5, 99:14, 107:23, 157:7 able [6] - 69:7, 99:1, 99:10, 107:23, 132:21, 157:19 abroad [1] - 149:20 ABSENT [3] - 1:15, 1:15, 1:16 absent [1] - 106:14 absolutely [8] - 30:15, 92:21, 124:8, 139:4, 139:7, 139:16, 171:6 abut [1] - 133:25 abutting [1] - 45:24 accept [1] - 11:20 acceptable [2] - 78:17, 78:19 accepted [2] - 11:11, 11:17 access [3] - 20:19, 102:12, 132:13 accommodate [4] - 19:19, 33:15, 52:14, 64:9 accommodating [1] - 94:16 accommodations [2] - 120:7, 161:23 accompany [1] - 27:15 according [3] - 57:20, 140:13, 143:6 account [2] - 49:1, 122:10 accrue [3] - 37:2, 51:21, 51:22 accrued [1] - 16:18 accrues [1] - 145:11 accurate [3] - 51:2, 63:14, 79:13 achieve [4] - 99:4, 117:18, 119:17, 120:3 acknowledging [1] - 17:16 acquire [4] - 91:12, 105:19, 106:1, 106:12 acquired [3] - 91:5, 104:3, 105:22 acquiring [2] - 90:18, 91:8 acquisition [2] - 90:16, 91:23 Acre [1] - 107:9 acre [2] - 57:21, 60:12 acreage [2] - 44:7, 103:25
\$			7	7 [2] - 119:10, 171:12 7-foot [1] - 20:15 71 [1] - 3:11 75 [5] - 3:10, 128:14, 129:3, 129:21, 141:8 76 [1] - 3:12 79 [1] - 3:12 799-2128 [1] - 2:10 7:25 [3] - 1:2, 1:10, 15:4
'	2		8	8 [8] - 4:16, 4:18, 55:24, 117:16, 118:2, 118:20, 118:25, 120:2 8,400 [2] - 23:15, 43:18 80 [2] - 3:14, 141:8 81,000 [1] - 131:22 81,342 [2] - 23:17, 43:17 82 [1] - 3:13 8400 [2] - 43:23, 131:21 85 [1] - 141:8 87 [1] - 52:7
'21 [3] - 6:6, 6:11, 7:10 '23 [1] - 6:16 'nother [1] - 108:8	2 [4] - 1:15, 24:12, 35:21, 47:5 2-and-a-half [3] - 23:20, 44:9, 73:2 2.4 [1] - 57:14 20 [1] - 53:8 20.1 [3] - 24:5, 45:18, 53:15 20.6 [1] - 35:9 200 [1] - 135:19 2006 [1] - 106:9 201 [1] - 2:10 201 439-8619 [1] - 2:6 2010 [4] - 35:9, 35:11, 142:11, 142:13 2016 [6] - 27:4, 101:1, 103:5, 106:8, 117:16, 119:7 2019 [6] - 35:5, 35:11, 130:11, 142:10, 142:11, 142:14 2021 [1] - 13:10 2022 [1] - 1:2 2023 [1] - 173:16 208 [1] - 2:9 22 [2] - 3:16, 94:11 22nd [2] - 6:6, 8:13 24.6 [1] - 35:9 24/7 [1] - 95:1 244 [6] - 1:5, 5:2, 5:21, 14:16, 83:15, 88:5 25 [1] - 125:22 250th [1] - 150:17 256 [2] - 3:23, 125:3 26 [1] - 106:8 26-foot [1] - 56:14 27.7 [1] - 35:7 28 [2] - 3:22, 120:20 29th [1] - 26:6	4	9	9 [4] - 1:2, 3:3, 3:3, 4:3 9/22/22 [2] - 4:18, 8:21 9/26 [2] - 7:11, 7:12 9/26/22 [2] - 4:16, 8:9 93 [1] - 3:8 94 [1] - 3:15 96 [1] - 3:16 973-618-0872 [1] - 1:22 99 [1] - 3:10 9th [1] - 6:8
0		4		A
07006 [1] - 1:21 07042 [1] - 9:9 07645 [1] - 2:10 07677 [1] - 2:6		4 [8] - 1:16, 3:18, 24:12, 27:20, 36:20, 47:4, 47:11, 100:18 40.1 [2] - 24:4, 45:17 40:55D-4 [1] - 31:7 45.4 [1] - 129:10 46 [1] - 29:1 47 [2] - 1:21, 119:14 47.9 [2] - 24:3, 45:6 48 [4] - 3:17, 57:22, 58:1, 96:19 49 [1] - 3:5 4th [1] - 13:11	8	
1		5		
1 [3] - 1:15, 55:24, 133:2 10 [5] - 15:6, 15:7, 72:16, 128:12, 129:3 10-foot [1] - 19:2 100 [9] - 3:17, 15:8, 52:7, 72:12, 72:16, 72:21, 89:24, 147:24, 150:1 104 [2] - 3:10, 93:12 105 [2] - 9:8, 10:4 108 [1] - 3:18 10:16 [1] - 172:7 11 [1] - 3:4 112 [1] - 3:19 117 [1] - 3:21 11th [1] - 13:10 12 [2] - 57:21, 58:1 120 [1] - 3:22 125 [1] - 3:23 131 [1] - 3:24 139 [1] - 4:4 13:43-5.9 [1] - 173:10 14 [1] - 106:24 142 [1] - 4:5 147 [1] - 3:14 148 [1] - 3:12 14th [4] - 77:23, 168:17, 171:12, 171:24 15 [3] - 27:19, 34:21, 53:8	2 [4] - 1:15, 24:12, 35:21, 47:5 2-and-a-half [3] - 23:20, 44:9, 73:2 2.4 [1] - 57:14 20 [1] - 53:8 20.1 [3] - 24:5, 45:18, 53:15 20.6 [1] - 35:9 200 [1] - 135:19 2006 [1] - 106:9 201 [1] - 2:10 201 439-8619 [1] - 2:6 2010 [4] - 35:9, 35:11, 142:11, 142:13 2016 [6] - 27:4, 101:1, 103:5, 106:8, 117:16, 119:7 2019 [6] - 35:5, 35:11, 130:11, 142:10, 142:11, 142:14 2021 [1] - 13:10 2022 [1] - 1:2 2023 [1] - 173:16 208 [1] - 2:9 22 [2] - 3:16, 94:11 22nd [2] - 6:6, 8:13 24.6 [1] - 35:9 24/7 [1] - 95:1 244 [6] - 1:5, 5:2, 5:21, 14:16, 83:15, 88:5 25 [1] - 125:22 250th [1] - 150:17 256 [2] - 3:23, 125:3 26 [1] - 106:8 26-foot [1] - 56:14 27.7 [1] - 35:7 28 [2] - 3:22, 120:20 29th [1] - 26:6	5 [5] - 28:4, 128:12, 129:3, 133:2, 155:5 5-0 [1] - 119:2 5-and-a-half [2] - 57:11, 90:18 50 [6] - 2:5, 2:9, 3:6, 119:1, 119:9, 140:16 51 [1] - 131:8 52 [1] - 3:7 55 [1] - 119:12 56 [3] - 3:7, 3:21, 117:8 57 [2] - 3:14, 80:22 58 [1] - 3:7 59 [1] - 3:6	9	
	3	6		
	3	6 [1] - 58:1 6,000 [1] - 128:9 60 [7] - 3:7, 35:8, 35:10, 130:17, 141:2, 141:24, 142:7 60-year-olds [1] - 141:5		

<p>Acres [2] - 91:20, 106:22</p> <p>acres [8] - 44:2, 57:8, 57:10, 57:12, 57:19, 90:18, 115:1, 115:2</p> <p>acted [1] - 33:14</p> <p>acting [1] - 11:16</p> <p>ACTING [3] - 5:1, 8:5, 11:19</p> <p>action [3] - 40:19, 173:8, 173:9</p> <p>actions [1] - 89:16</p> <p>activities [1] - 25:11</p> <p>actual [2] - 73:12, 144:3</p> <p>add [5] - 38:23, 46:14, 59:18, 69:3, 69:10</p> <p>added [3] - 22:9, 22:12, 34:17</p> <p>adding [1] - 59:20</p> <p>addition [3] - 96:8, 156:19, 169:15</p> <p>additional [4] - 13:5, 17:22, 19:2, 20:15</p> <p>address [9] - 20:17, 29:10, 68:16, 70:14, 94:10, 103:1, 108:23, 112:16, 120:19</p> <p>addressed [2] - 68:23, 71:11</p> <p>addresses [1] - 98:20</p> <p>addressing [3] - 27:6, 29:7, 136:17</p> <p>adhere [1] - 83:17</p> <p>adjacent [4] - 67:12, 101:13, 121:2, 122:1</p> <p>adjustment [1] - 82:7</p> <p>Adjustment [1] - 68:1</p> <p>Administrative [1] - 173:10</p> <p>adopted [2] - 105:9, 170:11</p> <p>advance [4] - 29:24, 42:23, 104:12, 118:13</p> <p>advanced [9] - 27:9, 40:5, 40:8, 41:4, 42:17, 118:18, 120:1, 146:16, 161:3</p> <p>advances [2] - 160:20, 160:23</p> <p>advancing [3] - 31:4, 41:4, 41:18</p> <p>advantage [1] - 31:21</p> <p>advice [1] - 49:5</p> <p>Advisory [1] - 105:10</p> <p>aesthetic [1] - 41:24</p> <p>aesthetically [1] - 42:4</p> <p>aesthetically-</p>	<p>pleasing [1] - 42:4</p> <p>affected [1] - 33:16</p> <p>affirm [1] - 9:3</p> <p>affirmatively [1] - 85:24</p> <p>affirmatives [2] - 66:9, 66:11</p> <p>afford [7] - 96:23, 96:25, 98:2, 98:13, 99:5, 99:11, 128:13</p> <p>affordability [3] - 98:5, 98:8, 99:8</p> <p>affordable [6] - 15:9, 28:2, 28:6, 57:23, 100:14, 161:13</p> <p>aforementioned [1] - 32:19</p> <p>afternoon [1] - 55:25</p> <p>afterwards [1] - 110:25</p> <p>age [10] - 27:13, 28:9, 98:19, 129:2, 129:4, 129:11, 140:24, 141:1, 141:10</p> <p>age-restricted [1] - 27:13</p> <p>agenda [1] - 171:20</p> <p>agent [1] - 173:8</p> <p>aggregate [1] - 39:7</p> <p>aging [7] - 28:9, 35:17, 96:21, 97:2, 97:5, 97:24, 98:22</p> <p>ago [3] - 21:1, 21:11, 116:25</p> <p>agree [13] - 7:2, 16:6, 16:8, 38:4, 39:5, 39:22, 48:25, 49:4, 68:19, 77:11, 89:23, 100:9, 102:20</p> <p>agreed [11] - 20:6, 20:24, 21:13, 21:23, 32:24, 36:15, 93:21, 97:1, 102:8, 162:1, 162:2</p> <p>agreeing [1] - 151:20</p> <p>agreement [13] - 68:15, 68:22, 69:15, 70:16, 77:3, 77:18, 78:4, 105:3, 114:20, 168:6, 168:9, 169:19, 171:3</p> <p>agreements [3] - 30:19, 32:20, 46:8</p> <p>ahead [5] - 67:24, 80:6, 82:19, 104:20, 109:24</p> <p>AICP [3] - 3:3, 4:3, 9:7</p> <p>aides [1] - 97:4</p> <p>aisle [1] - 45:20</p> <p>ALESSI [30] - 1:13,</p>	<p>57:2, 57:19, 57:24, 58:6, 58:23, 59:4, 59:6, 59:10, 59:16, 61:10, 62:21, 62:25, 64:2, 93:4, 93:6, 93:23, 111:13, 111:17, 111:20, 116:11, 116:22, 117:2, 124:6, 124:12, 124:14, 124:17, 124:21, 165:24, 171:19</p> <p>Alessi [1] - 3:7</p> <p>Alessi's [1] - 59:20</p> <p>Allegro [1] - 89:15</p> <p>allocating [1] - 107:7</p> <p>allow [4] - 45:10, 47:12, 59:21, 77:12</p> <p>allowed [10] - 23:12, 23:15, 23:20, 43:4, 44:9, 80:9, 87:13, 90:11, 92:16, 127:19</p> <p>allowing [2] - 44:15, 98:24</p> <p>allows [4] - 19:18, 20:19, 39:20, 103:15</p> <p>almost [7] - 43:1, 43:11, 49:4, 53:25, 58:13, 59:25, 107:22</p> <p>alternate [1] - 102:7</p> <p>ALTERNATE [4] - 1:15, 1:15, 1:16, 1:16</p> <p>alternative [5] - 27:16, 39:23, 47:21, 60:6, 106:16</p> <p>Alzheimer's [2] - 33:8, 33:17</p> <p>Amazon [1] - 95:3</p> <p>ambiguous [1] - 159:15</p> <p>ambulance [8] - 68:14, 68:15, 69:6, 69:8, 71:17, 72:6, 93:10, 93:14</p> <p>Ambulance [1] - 71:13</p> <p>ambulance-wise [1] - 93:10</p> <p>ameliorate [1] - 36:11</p> <p>amenities [6] - 19:20, 25:18, 44:16, 64:9, 64:12, 65:9</p> <p>American [3] - 10:8, 35:5, 130:11</p> <p>Americans [1] - 154:5</p> <p>amount [3] - 62:18, 155:14, 156:15</p> <p>ample [1] - 29:5</p> <p>amusement [1] - 145:8</p>	<p>analysis [13] - 14:14, 34:25, 35:4, 67:25, 80:16, 92:18, 128:5, 128:21, 129:8, 130:2, 141:18, 160:10</p> <p>analyze [3] - 138:5, 138:7, 140:12</p> <p>Angeline [2] - 2:11, 76:25</p> <p>ANNA [1] - 1:12</p> <p>answer [22] - 48:5, 58:16, 60:21, 64:15, 66:20, 73:17, 80:15, 81:21, 89:13, 92:14, 92:25, 95:15, 96:3, 121:16, 121:17, 133:8, 133:19, 146:1, 148:4, 154:21, 158:20, 158:23</p> <p>answered [5] - 129:16, 141:15, 151:12, 151:16, 151:22</p> <p>answering [1] - 54:15</p> <p>answers [1] - 126:19</p> <p>anticipate [1] - 168:15</p> <p>anyway [2] - 96:3, 151:6</p> <p>apartment [2] - 25:2, 25:4</p> <p>apologize [8] - 33:6, 65:15, 84:11, 87:1, 91:3, 125:17, 134:10, 166:18</p> <p>appeal [1] - 54:11</p> <p>appeared [1] - 10:21</p> <p>appearing [1] - 10:23</p> <p>applause [2] - 86:23, 117:7</p> <p>applicable [1] - 118:15</p> <p>Applicant [1] - 2:7</p> <p>applicant [46] - 11:5, 11:14, 14:24, 15:17, 15:19, 15:22, 16:1, 16:19, 17:11, 18:1, 18:4, 19:19, 20:6, 21:6, 21:12, 30:7, 30:20, 32:24, 36:13, 36:15, 37:6, 38:13, 38:15, 46:18, 48:8, 48:18, 48:24, 48:25, 49:4, 51:21, 55:17, 63:21, 68:19, 77:4, 86:16, 88:2, 90:20, 96:9, 99:22, 99:23, 102:8, 121:10, 128:22, 156:21,</p>	<p>170:12, 171:17</p> <p>applicant's [9] - 18:6, 19:12, 21:17, 33:15, 34:22, 35:25, 66:25, 141:16, 156:17</p> <p>application [75] - 5:2, 5:21, 6:5, 6:14, 6:23, 12:4, 12:9, 12:15, 12:16, 12:23, 13:13, 13:20, 15:1, 17:6, 18:21, 21:16, 27:10, 29:4, 30:6, 30:12, 33:19, 34:10, 36:24, 39:3, 39:9, 39:24, 42:18, 46:6, 46:17, 47:21, 48:17, 48:25, 49:6, 49:14, 49:16, 51:16, 61:5, 67:2, 69:14, 69:25, 73:6, 78:1, 84:15, 84:18, 87:7, 87:25, 88:20, 89:7, 92:17, 103:9, 104:11, 104:12, 115:24, 118:9, 118:12, 118:13, 118:18, 120:1, 137:23, 139:6, 140:11, 140:15, 143:5, 146:12, 146:14, 147:4, 147:7, 155:23, 156:23, 160:9, 168:20, 169:3, 169:13, 169:17, 171:10</p> <p>applications [4] - 11:6, 11:14, 55:18, 70:11</p> <p>applied [1] - 51:12</p> <p>apply [4] - 38:7, 44:6, 82:14, 120:4</p> <p>appointments [1] - 6:20</p> <p>appreciate [4] - 43:1, 52:21, 98:23, 142:25</p> <p>approach [3] - 12:16, 88:4, 110:5</p> <p>approached [4] - 12:15, 105:2, 106:3, 110:5</p> <p>appropriate [20] - 22:17, 32:18, 32:20, 40:2, 40:17, 40:20, 44:6, 45:16, 47:7, 52:2, 53:4, 69:9, 117:19, 117:20, 119:19, 140:12, 149:1, 159:11, 159:20</p> <p>appropriately [3] -</p>
---	--	--	--	--

<p>51:12, 141:14, 141:15 approval [7] - 20:23, 32:6, 77:6, 99:21, 120:1, 123:7, 146:9 approvals [2] - 30:21, 167:13 approve [4] - 18:20, 30:12, 40:5, 42:17 approved [8] - 86:12, 87:17, 89:25, 118:19, 123:2, 145:15, 147:4, 147:6 approving [1] - 68:23 archaeological [3] - 149:17, 154:3, 154:14 archaeologist [2] - 155:7, 155:9 archaeology [3] - 148:22, 149:13, 155:4 architect [12] - 13:18, 13:19, 14:25, 41:20, 42:3, 46:21, 64:25, 74:13, 114:13, 136:12, 137:13, 138:9 architectural [1] - 115:16 Ardito [4] - 3:14, 80:22, 89:3, 147:14 ARDITO [38] - 80:22, 81:25, 82:17, 82:20, 82:25, 83:5, 84:1, 84:7, 84:11, 85:2, 85:8, 85:21, 85:25, 87:1, 87:8, 87:14, 87:17, 87:21, 88:9, 88:13, 88:16, 88:22, 89:1, 89:5, 89:10, 89:13, 89:25, 90:8, 90:12, 90:20, 90:24, 91:2, 91:7, 91:10, 91:25, 92:5, 147:14, 148:5 area [27] - 9:25, 16:12, 19:1, 19:18, 20:15, 23:4, 23:15, 24:7, 24:11, 32:25, 38:6, 39:9, 43:16, 46:12, 46:16, 47:4, 47:8, 47:9, 47:13, 55:3, 55:5, 56:14, 74:21, 74:22, 74:23, 83:19, 88:3 areas [9] - 18:23, 19:6, 41:15, 41:18, 45:22, 55:12, 62:17, 119:21, 132:15</p>	<p>argue [12] - 30:2, 30:18, 31:3, 35:23, 41:25, 58:13, 83:22, 142:2, 148:2, 153:16, 161:20 arguments [2] - 134:16, 140:13 arise [1] - 101:5 arrangement [1] - 41:9 ARRIVAL [1] - 1:10 arrived [1] - 96:10 arriving [1] - 5:4 art [1] - 161:19 articles [1] - 26:8 articulate [1] - 137:9 articulated [1] - 34:13 artifacts [1] - 154:4 Artis [3] - 69:24, 70:22, 70:23 aspect [3] - 50:23, 50:24, 143:12 aspects [2] - 8:3, 89:22 aspirational [3] - 106:10, 106:19, 143:22 assessment [1] - 59:10 assist [1] - 91:16 assistance [1] - 25:9 Assisted [1] - 113:5 assisted [24] - 1:6, 15:2, 18:7, 22:18, 23:2, 24:24, 25:2, 33:12, 33:16, 36:25, 41:2, 43:11, 44:7, 84:17, 101:20, 102:17, 102:24, 113:1, 121:1, 128:1, 128:10, 128:11, 128:18, 141:5 assisted-living [13] - 1:6, 15:2, 18:7, 22:18, 23:2, 24:24, 25:2, 33:12, 33:16, 36:25, 43:11, 44:7, 84:17 associated [2] - 18:25, 58:21 Association [1] - 76:25 assume [2] - 153:8, 171:18 assuming [1] - 169:19 assumption [2] - 49:18, 49:23 AT [1] - 1:2 attempt [2] - 120:24, 124:9</p>	<p>attempts [1] - 53:21 attendance [3] - 10:24, 13:7, 15:4 attended [2] - 13:3, 36:12 attention [4] - 13:9, 21:21, 42:14, 62:15 Attorney [1] - 2:11 attorney [2] - 70:23, 125:23 Audience [3] - 108:6, 152:18, 169:5 AUDIENCE [12] - 92:8, 92:22, 92:23, 93:1, 108:10, 116:20, 119:14, 124:15, 124:20, 126:20, 127:1, 165:9 audience [2] - 46:25, 140:7 august [1] - 10:24 authority [2] - 33:14, 91:18 automatic [1] - 32:6 Autumn [2] - 4:5, 139:23 availability [1] - 106:13 available [6] - 7:7, 83:7, 91:12, 104:25, 105:4, 170:7 Avenue [11] - 3:14, 4:6, 62:4, 69:19, 80:23, 101:9, 101:16, 109:18, 124:16, 124:18, 142:23 average [1] - 129:10 aware [13] - 11:4, 21:9, 29:13, 80:25, 82:8, 128:11, 135:7, 155:4, 157:3, 157:6, 157:25, 158:7, 170:1 awesome [1] - 158:24</p>	<p>62:10 base [1] - 84:19 based [15] - 13:14, 22:2, 29:2, 66:25, 81:13, 95:19, 98:16, 130:5, 130:10, 130:23, 133:14, 146:19, 147:7, 160:4, 161:20 basement [1] - 134:20 bases [1] - 50:22 basin [1] - 45:11 basis [1] - 162:16 bathroom [1] - 25:5 Battlefields [1] - 149:16 bear [1] - 119:4 Beattie [1] - 76:24 BEATTIE [1] - 2:8 became [1] - 105:24 become [2] - 83:7, 102:17 becomes [4] - 91:11, 102:24, 104:24, 106:16 bed [1] - 15:6 BEDIAN [7] - 1:16, 57:14, 66:5, 66:8, 67:5, 67:16, 170:15 Bedian [1] - 3:9 bedrooms [1] - 25:14 beds [8] - 15:8, 49:22, 52:8, 72:12, 72:16, 72:21, 94:17, 122:20 beg [1] - 85:21 began [1] - 30:24 begin [4] - 15:15, 15:19, 18:12, 23:11 beginning [2] - 34:11, 136:16 begins [1] - 12:17 behalf [3] - 76:24, 87:2 behind [2] - 124:22, 134:19 BEING [1] - 1:9 beneficial [59] - 29:14, 29:22, 30:3, 31:6, 31:8, 31:17, 31:20, 32:3, 32:5, 33:2, 33:10, 34:1, 34:10, 41:1, 50:24, 51:8, 51:10, 51:15, 66:14, 83:16, 86:2, 86:16, 86:17, 101:18, 101:19, 102:1, 104:5, 131:3, 143:8, 144:1, 144:15, 144:19, 144:21, 144:24, 145:3,</p>	<p>145:10, 146:13, 146:16, 146:21, 147:18, 147:19, 148:1, 148:8, 148:10, 153:4, 153:14, 153:16, 160:19, 160:22, 160:25, 161:11, 161:16, 161:19, 161:22, 161:24, 162:4, 163:19, 165:3, 167:6 benefit [11] - 15:6, 18:3, 22:9, 86:20, 96:21, 98:1, 145:9, 145:11, 152:17, 152:25, 155:13 benefits [17] - 16:18, 36:23, 37:2, 37:4, 39:20, 51:20, 51:22, 66:12, 83:10, 83:11, 96:20, 97:22, 100:7, 135:9, 145:5, 153:11, 156:9 Bergen [8] - 35:10, 35:13, 35:16, 70:11, 91:16, 112:8, 113:1, 142:1 best [4] - 53:8, 91:23, 117:15, 133:9 better [13] - 16:15, 18:22, 32:25, 37:7, 39:23, 40:25, 45:4, 47:20, 60:21, 64:24, 80:10, 158:14 between [6] - 43:10, 55:24, 61:20, 67:12, 77:3, 128:8 beyond [8] - 114:7, 114:9, 129:23, 135:24, 136:1, 136:3, 156:21, 163:22 Bi [1] - 124:22 Bi-State [1] - 124:22 big [7] - 56:21, 60:17, 65:18, 124:21 bigger [1] - 65:5 bill [1] - 69:7 Bill [2] - 93:10, 93:11 billing [1] - 93:17 binder [1] - 6:5 bit [13] - 10:13, 15:15, 23:18, 33:3, 40:16, 49:5, 53:23, 56:13, 66:24, 75:18, 124:7, 140:8, 144:16 black [1] - 154:5 Block [2] - 1:6, 14:19 blocked [1] - 109:23</p>
B				
<p>baby [1] - 28:8 background [4] - 9:22, 9:23, 9:24, 113:9 bah [5] - 162:4, 162:5 balance [4] - 100:12, 117:18, 119:17, 120:3 balanced [2] - 27:21, 30:9 balancing [1] - 107:16 barrier [1] - 67:11 barring [2] - 61:17,</p>				

<p>blocking [1] - 55:4</p> <p>Bloustein [1] - 10:12</p> <p>BOARD [2] - 1:1, 1:9</p> <p>Board [6] - 2:3, 2:19, 2:21, 33:6, 68:1, 76:23</p> <p>board [80] - 6:19, 6:25, 8:2, 9:22, 10:24, 11:3, 12:7, 13:9, 13:22, 15:16, 16:6, 17:25, 19:15, 21:24, 22:25, 23:5, 29:13, 29:16, 30:10, 31:4, 32:18, 32:19, 32:22, 33:14, 36:1, 36:13, 39:2, 39:20, 40:1, 47:19, 48:24, 63:15, 63:21, 63:24, 66:19, 69:13, 75:24, 78:16, 78:18, 79:14, 79:15, 80:25, 81:12, 83:3, 84:15, 84:18, 86:11, 86:22, 87:9, 88:1, 88:15, 88:18, 88:23, 89:9, 89:20, 90:1, 90:14, 103:9, 104:11, 113:6, 116:7, 123:23, 124:5, 140:12, 140:18, 143:3, 144:25, 145:17, 146:9, 147:2, 147:3, 147:6, 156:23, 158:4, 160:9, 163:9, 169:1, 169:12, 170:12, 173:6</p> <p>board's [4] - 12:10, 17:18, 54:11, 146:18</p> <p>Board/Professional [1] - 3:5</p> <p>boards [6] - 10:22, 32:2, 82:6, 82:7, 107:17</p> <p>bob [1] - 171:21</p> <p>Bob [7] - 7:2, 69:18, 70:15, 92:10, 104:23, 169:22, 171:22</p> <p>body [2] - 34:7, 173:6</p> <p>Bonae [1] - 105:23</p> <p>Bonnabel [1] - 110:7</p> <p>boom [1] - 28:8</p> <p>borders [1] - 46:15</p> <p>Borough [15] - 2:20, 27:23, 28:13, 34:3, 69:19, 69:22, 92:16, 102:7, 105:9, 107:23, 108:2, 115:2, 115:3, 116:4</p> <p>borough [4] - 19:11,</p>	<p>34:21, 57:21, 63:15</p> <p>BOROUGH [3] - 1:1, 1:9</p> <p>Borough's [3] - 101:3, 101:6, 115:9</p> <p>bottom [2] - 24:11, 47:3</p> <p>Boulevard [1] - 2:5</p> <p>Bowker [1] - 38:9</p> <p>box [1] - 164:14</p> <p>boxes [1] - 161:13</p> <p>Boyce [2] - 5:13, 5:15</p> <p>BOYCE [1] - 1:11</p> <p>break [6] - 108:14, 111:14, 111:16, 111:19, 111:20, 111:23</p> <p>Brian [1] - 1:21</p> <p>brief [1] - 111:24</p> <p>briefly [1] - 26:7</p> <p>bring [5] - 78:5, 90:6, 112:23, 113:3, 133:4</p> <p>bringing [2] - 97:3, 112:22</p> <p>brings [1] - 137:9</p> <p>broader [3] - 12:20, 51:17, 98:24</p> <p>broadly [1] - 27:25</p> <p>brought [8] - 87:9, 91:13, 100:5, 130:4, 137:11, 139:24, 141:2</p> <p>buddy [2] - 111:13, 116:11</p> <p>buffer [13] - 18:25, 19:2, 20:13, 20:15, 24:2, 24:4, 45:5, 45:10, 45:17, 46:2, 46:5, 53:15, 63:8</p> <p>buffering [2] - 22:3, 67:11</p> <p>buffers [1] - 62:17</p> <p>build [4] - 14:1, 38:15, 57:9, 92:18</p> <p>buildable [1] - 57:19</p> <p>building [31] - 19:17, 20:20, 23:19, 42:5, 44:8, 45:3, 45:7, 58:1, 59:13, 64:6, 64:23, 65:10, 72:11, 72:12, 72:17, 73:7, 73:24, 74:20, 94:18, 103:19, 103:24, 109:22, 109:23, 115:10, 115:18, 124:22, 127:7, 132:23</p> <p>buildings [8] - 58:1, 58:3, 58:6, 58:8, 58:9, 58:25, 60:11,</p>	<p>62:5</p> <p>built [6] - 59:22, 64:13, 64:17, 124:12, 124:14</p> <p>bulk [6] - 23:4, 37:24, 38:12, 38:17, 39:9, 82:14</p> <p>bunch [1] - 171:1</p> <p>burden [2] - 48:20, 106:6</p> <p>business [1] - 63:20</p> <p>butcher [1] - 37:19</p> <p>butchered [1] - 33:6</p> <p>buy [2] - 91:21, 107:8</p> <p>buying [1] - 106:23</p> <p>BY [7] - 2:4, 2:8, 9:20, 11:24, 26:5, 167:3, 167:17</p>	<p>33:7, 33:13, 33:21, 37:16, 37:19, 38:23, 39:2, 41:25, 42:1, 49:25, 50:5, 53:4, 78:6, 82:8, 87:24, 88:5, 101:18, 103:11, 113:10, 138:2, 139:1, 146:23, 147:17, 147:19, 147:20, 150:10, 160:7</p> <p>cases [14] - 14:3, 33:1, 34:8, 37:20, 38:20, 39:25, 47:20, 81:2, 81:5, 81:20, 81:22, 82:4, 82:5, 88:1</p> <p>catch [1] - 85:11</p> <p>catchall [1] - 40:16</p> <p>category [1] - 137:11</p> <p>Catherine [2] - 3:18, 108:16</p> <p>caused [1] - 166:19</p> <p>causing [1] - 21:12</p> <p>CDW [1] - 135:11</p> <p>cemetery [1] - 79:20</p> <p>Census [3] - 129:9, 129:10, 141:22</p> <p>Center [3] - 2:5, 91:14, 91:15</p> <p>center [5] - 31:15, 75:7, 75:10, 104:1, 147:20</p> <p>central [3] - 25:12, 83:19, 101:6</p> <p>Central [7] - 4:6, 62:4, 69:19, 101:9, 124:15, 124:18, 142:23</p> <p>centrally [2] - 101:4, 102:23</p> <p>cents [2] - 105:16</p> <p>certain [4] - 64:9, 98:19, 160:14, 165:15</p> <p>certainly [16] - 9:6, 10:1, 12:10, 17:12, 21:7, 21:16, 35:22, 36:4, 37:11, 41:4, 41:25, 47:25, 59:14, 66:21, 81:17, 85:19</p> <p>Certificate [17] - 15:8, 17:15, 17:19, 18:5, 25:22, 26:1, 72:16, 122:16, 122:18, 123:1, 123:4, 128:23, 155:18, 156:2, 156:6, 156:16, 156:20</p> <p>certified [1] - 10:7</p> <p>Certified [2] - 10:8,</p>	<p>173:4</p> <p>certify [1] - 173:5</p> <p>cetera [6] - 42:6, 46:15, 87:25, 102:12, 104:25, 138:11</p> <p>Chair [1] - 105:21</p> <p>chair [1] - 79:12</p> <p>CHAIRMAN [113] - 1:10, 1:11, 5:1, 8:5, 11:19, 49:9, 50:10, 50:12, 52:18, 52:24, 53:1, 53:7, 53:10, 53:18, 54:3, 54:14, 54:19, 54:25, 55:8, 55:11, 55:23, 56:3, 56:10, 56:18, 56:25, 58:4, 59:17, 60:5, 60:15, 61:6, 62:23, 63:3, 64:4, 67:19, 67:21, 67:24, 69:1, 71:12, 71:21, 71:23, 72:9, 72:17, 72:20, 72:24, 73:1, 73:16, 74:1, 74:5, 74:9, 74:16, 75:5, 75:9, 75:13, 75:16, 76:2, 76:4, 76:8, 76:9, 78:18, 79:2, 80:6, 80:21, 82:19, 85:23, 86:24, 87:4, 87:16, 93:2, 93:5, 95:6, 96:17, 97:7, 97:10, 97:13, 100:5, 100:15, 104:20, 105:7, 109:2, 109:12, 109:14, 110:1, 111:10, 111:18, 111:22, 111:25, 117:3, 120:10, 123:24, 124:3, 124:25, 125:8, 126:1, 126:12, 126:15, 126:23, 127:3, 127:12, 129:12, 129:17, 131:14, 138:16, 139:19, 140:25, 142:18, 147:11, 148:15, 162:23, 163:7, 166:23, 167:24, 169:9, 171:7</p> <p>chairman [4] - 5:3, 7:20, 106:7, 108:13</p> <p>Chairman [9] - 3:7, 3:11, 11:16, 11:21, 15:3, 52:17, 61:9, 64:1, 76:23</p> <p>Chairperson [1] -</p>
--	--	--	---	--

<p>112:8 chairperson [1] - 14:17 challenging [2] - 103:16, 133:21 change [1] - 6:19 changed [1] - 7:1 character [3] - 17:25, 47:8, 63:20 characterization [1] - 148:1 charging [1] - 22:12 CHARLES [1] - 1:13 Charlie [2] - 52:18, 58:5 check [1] - 123:16 checks [2] - 161:13, 161:17 chemicals [2] - 62:2, 62:3 Cherie [2] - 3:23, 125:3 Chestnut [1] - 2:9 child [3] - 135:14, 135:16, 136:18 childcare [1] - 31:15 children [1] - 136:21 CHO [16] - 131:17, 131:20, 131:24, 133:24, 134:4, 134:6, 134:9, 134:17, 135:6, 135:23, 136:1, 136:14, 137:5, 137:7, 138:13, 139:17 Cho [2] - 3:24, 131:17 choose [2] - 128:14, 144:14 chose [2] - 110:8, 141:21 Church [1] - 101:14 church [8] - 45:25, 46:3, 53:14, 95:5, 101:15, 135:9, 135:10, 135:15 Churchhill [1] - 100:18 Churchill [1] - 3:18 circulate [1] - 20:20 circulation [1] - 21:3 circumvented [1] - 110:19 citation [3] - 103:2, 104:9, 155:17 cite [2] - 66:9, 66:16 cited [3] - 81:6, 119:25, 141:23 citizen [4] - 27:11, 34:5, 34:15, 42:20</p>	<p>citizens [2] - 27:24, 33:25 city [1] - 140:8 civic [3] - 10:19, 41:8, 41:11 civil [5] - 13:18, 42:14, 138:4, 163:24, 166:21 clarification [1] - 65:24 clarified [1] - 167:23 clarifies [1] - 93:24 clarify [2] - 94:4, 95:10 class [1] - 166:9 Class [2] - 5:11, 5:12 classic [1] - 44:22 classics [1] - 149:14 classification [1] - 148:7 cleaned [1] - 18:23 clear [5] - 38:21, 78:8, 95:15, 133:11, 168:16 clearcut [4] - 73:21, 74:3, 74:6, 75:4 clearer [2] - 62:6, 81:14 clearing [2] - 74:24, 163:20 clearly [2] - 41:12, 86:19 clears [1] - 140:22 client [7] - 15:20, 16:2, 59:1, 86:12, 86:13, 143:19, 156:16 client's [3] - 59:11, 61:18, 62:8 clients [1] - 16:8 close [5] - 22:5, 23:21, 44:19, 45:21, 54:2 closer [4] - 20:14, 20:16, 45:20, 45:25 Closter [3] - 3:13, 79:6, 91:15 coach [1] - 53:9 COAH [3] - 161:6, 161:12, 161:17 code [4] - 21:20, 39:24, 46:17, 47:21 Code [1] - 173:11 cohort [6] - 28:22, 35:13, 35:18, 37:3, 85:17, 98:19 colleagues [1] - 165:3 collecting [1] - 111:6 colloquy [2] - 164:4, 164:5 Colosseum [1] - 149:15 combination [1] - 25:8</p>	<p>combined [1] - 91:15 comfortable [1] - 38:19 comfortably [1] - 52:14 coming [5] - 54:6, 135:19, 158:8, 158:9, 165:20 commencement [1] - 77:10 COMMENCING [1] - 1:2 comment [7] - 7:25, 36:4, 103:1, 107:5, 107:12, 116:12, 139:3 comments [9] - 17:10, 17:16, 20:22, 36:18, 46:9, 116:10, 134:12, 139:9, 166:2 commercial [4] - 47:8, 47:12, 119:20, 120:5 commercially [1] - 86:8 commission [8] - 88:24, 89:11, 89:15, 89:17, 89:20, 108:17, 170:6, 173:6 Commissioner [2] - 55:15, 148:13 commissioner [2] - 89:19, 137:8 commissioner's [2] - 137:20, 138:3 commissioners [4] - 24:6, 41:10, 42:13, 44:11 Commissioners [15] - 9:14, 10:2, 22:20, 25:16, 28:3, 28:19, 29:2, 30:5, 33:22, 37:10, 42:19, 44:20, 46:11, 46:20, 171:16 commitment [2] - 19:5, 156:17 committed [2] - 18:1, 129:8 Committee [1] - 112:10 committee [3] - 105:21, 111:8, 116:6 commonly [1] - 14:16 communities [4] - 18:8, 26:19, 26:20, 141:10 community [32] - 15:23, 16:7, 16:19, 18:3, 19:16, 31:11, 35:2, 36:1, 37:2, 42:20, 46:23, 51:17,</p>	<p>51:23, 63:24, 83:16, 99:2, 101:25, 104:11, 107:14, 131:4, 140:18, 145:12, 152:12, 152:15, 152:17, 153:22, 155:13, 155:21, 156:24, 160:9, 161:5, 162:7 Community [2] - 35:5, 130:11 compact [1] - 61:4 company [1] - 34:24 compare [3] - 79:17, 79:25, 131:2 compared [1] - 94:20 compelled [2] - 107:3, 107:5 completed [3] - 6:24, 10:6, 10:10 completely [1] - 86:12 compliance [1] - 44:13 compliant [2] - 21:20, 73:14 complies [1] - 173:10 component [1] - 27:22 comport [3] - 21:23, 23:24, 118:4 comporting [1] - 35:3 comports [1] - 21:3 composition [1] - 169:12 comprehensive [2] - 16:3, 98:17 compromise [1] - 103:11 computers [1] - 171:8 concept [6] - 39:4, 39:6, 39:10, 41:1, 82:12, 82:15 concepts [1] - 82:9 concern [6] - 50:4, 60:17, 68:12, 136:18, 169:11, 171:2 concerned [2] - 53:12, 59:19 concerning [1] - 119:10 concerns [8] - 20:12, 20:18, 35:25, 46:9, 54:6, 67:2, 81:1, 95:13 conclude [4] - 48:2, 78:1, 96:15, 168:6 concluded [2] - 166:5, 170:25 concludes [1] - 167:25</p>	<p>concluding [1] - 33:14 conclusion [3] - 6:14, 80:11, 168:22 conclusions [1] - 96:8 condemn [1] - 106:15 condemning [1] - 108:9 condition [8] - 18:22, 37:7, 68:19, 69:14, 70:4, 71:2, 77:5, 99:21 conditional [2] - 27:15, 34:17 conditions [5] - 32:18, 32:21, 36:10, 36:15, 68:9 confident [1] - 23:8 confidently [1] - 47:22 configuration [1] - 72:23 confirm [1] - 77:14 confirming [2] - 122:19, 123:1 confirms [1] - 74:15 conflicts [1] - 138:6 conformance [1] - 90:17 confusion [2] - 134:11, 136:11 congregate [1] - 33:24 conjunction [3] - 5:25, 11:5, 11:25 connection [2] - 91:9, 168:19 conservation [1] - 42:8 consider [6] - 39:20, 49:15, 122:13, 132:7, 134:23, 137:21 consideration [4] - 32:17, 38:1, 61:3, 164:10 considerations [1] - 17:17 considered [8] - 31:11, 36:2, 37:25, 79:22, 133:18, 134:21, 163:17, 164:13 considering [3] - 39:3, 134:25, 137:2 conspicuous [1] - 46:24 constitute [1] - 30:6 constraints [3] - 42:15, 147:2, 169:16 construct [1] - 36:24 construction [5] - 42:21, 61:17, 62:11,</p>
---	---	--	--	---

<p>75:19, 121:24 contact [1] - 53:21 contained [1] - 40:9 context [19] - 12:20, 17:10, 33:4, 39:13, 40:3, 43:14, 45:15, 46:21, 47:6, 47:10, 47:18, 52:6, 98:24, 134:15, 137:15, 137:17, 137:18, 137:23, 160:11 contextually [1] - 44:6 continue [1] - 28:14 continued [1] - 4:3 continues [1] - 28:8 Continuing [1] - 4:1 continuing [2] - 26:19, 172:6 continuum [4] - 28:21, 35:18, 98:18, 128:25 contract [2] - 68:15, 68:22 contractor [1] - 69:5 control [2] - 63:15, 63:22 controls [2] - 27:14, 34:18 convenience [1] - 132:12 conversation [1] - 99:13 conversations [1] - 58:12 copy [5] - 7:5, 70:18, 71:23, 123:18, 123:19 Coral/Capital [1] - 1:5 Corporate [1] - 2:5 corporation [1] - 155:20 corps [3] - 68:14, 71:17, 72:6 Corps [1] - 71:13 correct [64] - 11:7, 11:8, 11:13, 12:5, 12:6, 12:13, 13:11, 13:15, 13:16, 17:7, 17:8, 25:24, 28:25, 29:1, 40:10, 40:11, 40:13, 41:21, 41:22, 43:24, 46:3, 46:4, 46:6, 46:7, 47:13, 47:14, 47:17, 50:16, 54:18, 54:24, 57:22, 57:23, 59:15, 63:9, 63:10, 63:13, 72:13, 72:25, 73:19, 74:7, 77:24, 82:2, 82:21, 83:4, 88:15, 91:7, 96:1, 96:6, 98:6,</p>	<p>100:12, 108:19, 109:11, 114:9, 114:22, 115:19, 121:19, 130:19, 130:20, 138:22, 151:2, 159:21, 167:16, 167:19, 167:21 correctly [2] - 38:10, 58:24 correspondence [1] - 71:20 cost [4] - 17:21, 115:4, 133:1, 156:7 COSTA [78] - 79:5, 79:9, 79:15, 80:5, 80:7, 80:13, 80:18, 148:16, 148:18, 149:3, 149:7, 149:9, 149:11, 150:3, 150:7, 150:16, 150:20, 150:22, 150:25, 151:6, 151:9, 151:14, 151:19, 151:25, 152:4, 152:11, 152:16, 152:24, 153:3, 153:10, 153:17, 153:23, 154:13, 154:19, 154:24, 155:3, 155:10, 155:12, 155:19, 155:24, 156:3, 156:8, 157:1, 157:13, 157:15, 157:18, 157:22, 157:25, 158:5, 158:7, 158:16, 158:21, 159:10, 159:16, 159:19, 159:23, 160:13, 161:4, 161:10, 161:25, 162:13, 162:22, 162:25, 163:4, 163:10, 163:16, 163:23, 164:2, 164:12, 164:19, 164:23, 165:2, 165:12, 165:19, 165:23, 165:25, 166:6, 166:18 Costa [2] - 3:12, 79:5 costs [1] - 17:23 council [2] - 92:1, 150:20 Council [1] - 33:23 COUNCILMAN [3] - 1:11, 1:12, 5:8 Councilman [3] -</p>	<p>5:13, 5:14, 5:15 councilwoman [1] - 109:19 counsel [7] - 19:7, 21:10, 32:21, 32:22, 53:13, 54:7, 54:17 Counsel [3] - 2:3, 2:7, 11:22 count [3] - 15:7, 73:15, 75:19 country [1] - 26:23 Country [2] - 3:22, 120:20 County [7] - 35:10, 35:13, 35:16, 70:11, 112:9, 113:1, 142:1 county [2] - 20:22, 93:14 couple [9] - 13:4, 37:20, 55:17, 74:16, 78:23, 104:22, 116:25, 117:25, 140:6 course [10] - 6:12, 10:16, 12:22, 18:14, 46:23, 48:24, 51:9, 67:14, 127:17, 134:14 Court [4] - 3:19, 21:11, 108:24, 173:4 COURT [17] - 1:20, 68:4, 94:6, 94:9, 94:12, 108:20, 108:22, 112:12, 112:16, 112:20, 117:10, 117:13, 120:15, 120:19, 120:22, 169:6, 169:10 court [35] - 31:24, 32:1, 32:3, 32:4, 33:1, 33:7, 33:13, 33:23, 34:4, 34:8, 37:20, 38:10, 38:20, 38:23, 39:2, 39:25, 81:2, 81:5, 81:12, 81:20, 81:22, 82:3, 82:5, 87:24, 88:1, 108:14, 111:15, 111:17, 111:18, 111:21, 146:22, 160:7, 173:6 courts [2] - 82:6, 145:4 coverage [2] - 23:12, 43:3 covered [6] - 14:24, 50:22, 50:23, 51:7, 95:24 CPA [1] - 57:24</p>	<p>create [4] - 28:4, 132:14, 132:17, 133:2 created [2] - 39:16, 173:7 creation [1] - 28:5 creative [7] - 16:2, 41:7, 48:19, 113:22, 114:12, 165:4, 165:12 creativity [1] - 114:12 credentials [1] - 11:17 credit [2] - 72:19, 133:16 criteria [14] - 27:2, 29:18, 29:19, 29:20, 30:10, 31:18, 31:20, 31:22, 51:11, 56:16, 131:5, 136:4, 146:13, 158:12 critical [3] - 7:25, 73:12, 126:21 crosswalks [1] - 135:23 crown [2] - 17:4, 21:13 Cs [1] - 50:24 CSH [5] - 1:4, 5:21, 64:13, 65:13, 122:9 cul [1] - 63:6 cul-de-sac [1] - 63:6 culmination [1] - 136:15 cultural [8] - 151:6, 159:1, 159:2, 159:3, 162:7, 162:11, 162:14, 162:16 curious [4] - 55:8, 81:3, 141:4, 158:22 current [6] - 6:25, 37:24, 94:9, 120:25, 121:4, 163:17 cut [2] - 89:1, 90:5 cute [1] - 92:14 cutting [3] - 59:19, 61:24, 132:5</p>	<p>damaging [2] - 79:20, 79:22 Dan [3] - 18:16, 20:4, 78:3 Daniel [2] - 3:12, 76:23 DANIEL [2] - 1:14, 2:8 data [3] - 130:15, 141:21, 142:13 date [3] - 7:10, 10:12, 172:6 Date [1] - 173:16 dated [2] - 13:9, 26:3 Dated [1] - 173:17 David [1] - 64:4 DAVID [2] - 1:14, 1:16 daycare [1] - 22:17 days [3] - 78:24, 95:12, 170:15 de [1] - 63:6 deal [3] - 57:20, 81:21, 147:1 dealing [3] - 87:5, 87:6 Dearborn [2] - 3:17, 96:19 Deberg [2] - 3:16, 94:11 December [6] - 6:6, 7:22, 77:23, 168:17, 171:12, 173:16 decided [2] - 93:13, 93:19 decision [5] - 54:11, 107:6, 146:19, 168:23, 169:17 decisionmaking [2] - 143:4, 143:12 decisions [3] - 47:1, 84:19, 107:18 decorative [2] - 46:15, 46:22 decrease [1] - 46:19 dedicated [1] - 28:21 deduced [1] - 29:20 deemed [3] - 33:9, 120:5, 161:23 defer [3] - 32:21, 54:7, 77:11 define [2] - 52:5, 145:4 defines [2] - 24:24, 145:3 definitely [2] - 6:12, 84:9 definition [5] - 25:8, 31:8, 31:9, 45:9, 148:9 degradation [1] - 42:11</p>
D				
<p>D'Arminio [1] - 5:20 D'ARMINIO [1] - 2:4 D-1 [18] - 22:23, 22:25, 23:7, 24:19, 29:17, 33:5, 36:24, 37:22, 38:5, 38:22, 43:6, 43:20, 48:14, 51:9, 66:8, 143:15, 143:16 D-2 [1] - 143:13 daily [1] - 25:12 dais [1] - 5:16</p>				

deliberating [1] - 146:14 deliberation [3] - 17:18, 40:2, 144:25 deliver [1] - 18:2 delivered [1] - 53:3 deliveries [4] - 55:20, 56:9, 95:2, 95:3 delivery [4] - 28:1, 55:1, 55:4, 55:24 delta [3] - 23:16, 23:17, 43:17 demand [5] - 22:11, 26:16, 35:2, 58:19, 96:13 demanding [1] - 165:20 demographic [6] - 26:21, 35:4, 128:5, 129:7, 129:25, 141:22 demographics [1] - 141:19 demonstrate [2] - 40:4, 140:17 demonstrated [1] - 48:19 demonstrates [3] - 21:17, 35:2, 35:15 demonstration [1] - 39:15 denied [1] - 147:4 densities [1] - 27:21 density [8] - 50:14, 52:1, 52:5, 52:14, 58:24, 59:12, 61:13, 62:3 deny [1] - 30:6 department [5] - 20:18, 25:1, 116:13, 116:16, 128:22 described [2] - 25:19, 84:17 DESCRIPTION [1] - 4:14 description [1] - 160:25 deserves [1] - 133:16 design [23] - 18:17, 19:5, 28:11, 28:18, 36:5, 37:4, 41:8, 41:11, 41:19, 41:24, 42:5, 47:15, 50:1, 50:6, 50:19, 60:24, 61:4, 62:18, 79:19, 114:16, 115:16, 133:12, 138:4 design's [1] - 19:4 designation [1] - 27:18	designed [3] - 25:10, 140:17, 146:4 designing [1] - 42:4 desirable [2] - 34:20, 41:6 desire [1] - 21:17 desired [1] - 27:16 despite [4] - 38:20, 39:6, 43:9, 82:4 destruction [1] - 59:24 detail [1] - 33:3 details [3] - 14:23, 15:12, 62:15 detention [1] - 45:10 determination [1] - 143:7 determine [1] - 122:5 determined [1] - 121:22 determines [1] - 122:9 determining [2] - 36:22, 98:1 detrimment [9] - 30:13, 30:16, 30:18, 36:2, 37:5, 37:11, 47:24, 49:15, 150:10 detrimments [10] - 32:14, 32:16, 32:19, 36:22, 37:1, 39:21, 66:21, 66:25, 67:3, 67:7 develop [3] - 41:13, 84:16, 109:17 developed [11] - 28:13, 59:23, 63:16, 67:12, 81:6, 81:8, 81:9, 81:24, 82:11, 82:16 developer [7] - 51:21, 109:16, 113:12, 113:19, 114:23, 114:24, 145:12 Developer [1] - 26:11 developer's [1] - 115:4 developers [1] - 28:15 development [41] - 10:18, 13:13, 15:2, 18:6, 21:7, 30:20, 36:25, 39:4, 39:6, 39:10, 40:20, 40:25, 41:8, 43:10, 43:11, 43:24, 50:3, 58:16, 58:22, 59:23, 63:7, 63:22, 80:3, 83:12, 84:17, 85:15, 92:18, 96:15, 103:9, 103:15, 110:13, 117:15, 118:4,	120:6, 127:7, 147:19, 148:14, 152:1, 152:4, 153:3, 155:15 developments [4] - 42:2, 79:18, 88:19, 89:8 deviation [1] - 45:21 deviations [7] - 23:5, 23:6, 39:6, 39:7, 39:8, 40:24, 42:25 diamond [1] - 149:19 Diane [3] - 5:3, 7:5, 123:20 DIANE [1] - 2:21 dictate [1] - 103:21 dictating [1] - 56:5 dictionary [1] - 25:7 die [1] - 163:18 die-off [1] - 163:18 difference [1] - 43:9 different [13] - 38:6, 43:7, 53:22, 81:13, 81:25, 82:4, 82:9, 86:12, 90:12, 101:15, 145:7, 160:6 differently [1] - 65:10 difficult [1] - 133:24 digs [1] - 149:17 dining [2] - 25:2, 25:13 DIRE [1] - 9:19 Dire [1] - 3:3 direct [2] - 48:2, 97:10 Direct [1] - 3:4 DIRECT [1] - 11:23 directed [1] - 76:10 directly [5] - 28:24, 30:16, 51:21, 66:22, 159:17 disagree [2] - 99:12, 104:16 discharging [1] - 18:24 discount [2] - 99:16, 99:18 discuss [2] - 26:24, 138:5 discussed [6] - 93:20, 96:23, 99:9, 99:14, 103:21, 135:3 discussing [1] - 101:18 discussion [1] - 138:1 discussions [2] - 156:23, 156:24 disease [1] - 33:17 display [2] - 24:11, 47:4 disrepair [1] - 102:10	dissimilar [1] - 43:21 distance [3] - 24:10, 45:20, 47:3 district [4] - 14:20, 23:3, 34:18, 38:7 districts [1] - 42:8 disturbance [10] - 19:1, 19:18, 45:2, 59:11, 60:16, 61:4, 61:23, 62:9, 62:18, 65:19 disturbing [1] - 61:24 divided [1] - 58:1 docks [2] - 56:16, 56:17 document [4] - 77:5, 123:11, 130:15, 130:17 documents [4] - 12:17, 13:15, 28:24, 29:3 dollars [1] - 91:17 done [25] - 7:4, 21:5, 50:6, 58:17, 62:24, 62:25, 77:7, 78:6, 80:13, 85:17, 103:17, 126:7, 127:9, 129:18, 130:15, 131:2, 134:1, 137:22, 138:12, 139:10, 139:11, 149:17, 149:20, 149:21, 166:16 door [3] - 25:6, 53:15, 116:17 Dorf [1] - 108:18 doubt [1] - 164:9 down [11] - 5:9, 6:14, 21:11, 46:11, 61:24, 84:23, 89:2, 90:5, 132:5, 163:6, 163:12 drafted [1] - 51:19 drainage [6] - 8:3, 21:10, 50:19, 77:4, 134:2, 169:19 Drive [10] - 2:11, 3:16, 3:17, 3:21, 3:24, 94:11, 96:19, 101:10, 117:9, 131:17 drive [1] - 45:20 drivers [1] - 46:25 drives [1] - 14:22 drop [1] - 55:20 drop-offs [1] - 55:20 due [6] - 26:16, 115:12, 116:2, 161:11, 163:18, 165:5	duly [1] - 9:9 during [5] - 14:7, 36:17, 46:6, 48:24, 128:17 dwelling [1] - 19:10 Dynamic [3] - 4:16, 7:9, 8:9
E				
Earls [1] - 149:18 early [2] - 30:25, 43:4 earmarked [1] - 100:10 earth [1] - 53:11 easier [1] - 48:21 easily [1] - 46:25 East [2] - 3:14, 80:23 eastern [1] - 164:14 easy [3] - 124:1, 124:4, 133:15 economic [2] - 152:8, 152:11 economics [1] - 155:23 edge [1] - 75:11 Edinburgh [1] - 149:14 Edith [1] - 2:11 editorial [1] - 151:23 educational [1] - 9:23 effect [1] - 132:3 efficient [1] - 20:10 efforts [5] - 16:11, 19:14, 35:25, 36:5, 42:3 eight [11] - 58:3, 58:6, 58:7, 58:9, 58:25, 61:14, 61:22, 62:4, 79:17 either [3] - 55:12, 61:20, 93:8 either/or [1] - 144:11 elderly [1] - 26:17 electric [1] - 22:12 element [1] - 143:10 elevator [1] - 93:19 elevators [1] - 132:14 eligible [1] - 15:7 eliminated [1] - 64:13 eliminating [1] - 65:8 ELLER [36] - 1:14, 66:4, 67:20, 68:25, 69:3, 69:11, 75:7, 75:10, 75:14, 76:7, 97:19, 99:12, 100:2, 100:9, 100:12, 104:18, 104:21, 105:16, 106:4, 107:19, 108:7,				

<p>108:11, 116:24, 123:7, 123:12, 123:17, 125:5, 136:10, 138:21, 138:25, 139:5, 148:6, 158:14, 158:18, 170:8, 171:2</p> <p>Eller [2] - 3:10, 93:16</p> <p>elsewhere [2] - 70:11, 96:9</p> <p>emergency [1] - 20:18</p> <p>emphasis [2] - 25:15, 94:16</p> <p>emphasize [1] - 20:1</p> <p>employed [1] - 173:8</p> <p>employee [1] - 95:2</p> <p>employees [1] - 94:24</p> <p>enables [1] - 41:1</p> <p>Enclave [2] - 128:8, 135:18</p> <p>encourage [5] - 28:5, 28:14, 40:19, 42:20, 145:24</p> <p>encouraged [1] - 34:21</p> <p>encourages [1] - 16:2</p> <p>encouraging [2] - 27:12, 28:1</p> <p>end [8] - 15:7, 39:12, 43:1, 44:19, 55:2, 61:16, 61:19, 159:20</p> <p>energy [3] - 20:10, 31:16, 42:9</p> <p>engage [1] - 16:7</p> <p>engagement [3] - 10:20, 16:14, 16:17</p> <p>engineer [30] - 13:18, 14:25, 18:13, 19:24, 22:22, 36:19, 41:12, 52:11, 60:3, 60:20, 61:1, 65:16, 65:17, 95:18, 133:11, 133:15, 133:17, 133:18, 133:22, 134:5, 134:6, 134:23, 135:4, 136:7, 136:12, 137:11, 138:4, 163:24, 166:21</p> <p>Engineer [1] - 2:19</p> <p>engineer's [6] - 20:2, 36:5, 36:7, 42:14, 62:15, 95:25</p> <p>engineering [1] - 50:6</p> <p>Engineering [5] - 4:15, 4:16, 7:9, 8:8, 8:9</p> <p>enhanced [2] - 31:23, 144:23</p> <p>enhances [1] - 36:9</p>	<p>enrollments [1] - 99:19</p> <p>enslaved [1] - 154:4</p> <p>ensue [1] - 32:14</p> <p>enter [1] - 47:2</p> <p>entering [1] - 54:4</p> <p>enters [1] - 15:24</p> <p>entire [5] - 44:1, 59:25, 74:25, 75:3, 138:20</p> <p>entirely [1] - 145:5</p> <p>entirety [1] - 114:10</p> <p>entitle [1] - 38:15</p> <p>entity [1] - 108:1</p> <p>entrance [1] - 25:6</p> <p>environment [5] - 41:7, 41:24, 42:4, 42:12, 94:18</p> <p>environmental [11] - 88:23, 89:11, 89:15, 89:17, 89:19, 89:20, 89:22, 108:17, 126:6, 147:2, 164:20</p> <p>environmentally [2] - 41:15, 88:24</p> <p>environmentally- sensitive [1] - 41:15</p> <p>envision [1] - 94:22</p> <p>equal [3] - 86:20, 147:17, 147:21</p> <p>equally [1] - 83:15</p> <p>equivalent [1] - 155:16</p> <p>especially [3] - 28:16, 83:8, 154:3</p> <p>ESQUIRE [3] - 2:2, 2:4, 2:8</p> <p>Esquire [1] - 3:12</p> <p>essentially [1] - 143:11</p> <p>establish [2] - 14:3, 96:7</p> <p>established [2] - 18:11, 95:20</p> <p>establishing [1] - 131:3</p> <p>estate [2] - 153:8, 153:21</p> <p>estimate [1] - 130:12</p> <p>estimates [1] - 35:6</p> <p>estimation [1] - 143:25</p> <p>et [6] - 42:6, 46:15, 87:25, 102:12, 104:25, 138:11</p> <p>evaluate [1] - 51:4</p> <p>evaluating [1] - 143:5</p> <p>evening [13] - 5:19, 5:22, 9:13, 10:2, 12:24, 13:1, 25:17,</p>	<p>28:20, 33:11, 38:18, 43:22, 49:7, 76:22</p> <p>event [1] - 69:5</p> <p>Everett [1] - 3:13</p> <p>evidence [8] - 16:4, 16:9, 17:12, 20:8, 21:7, 70:9, 70:19, 84:21</p> <p>exact [3] - 57:13, 86:13, 123:1</p> <p>exactly [4] - 26:21, 43:25, 105:13, 115:19</p> <p>exaggerate [1] - 144:18</p> <p>Exam [1] - 106:8</p> <p>Examination [3] - 3:3, 3:4, 3:4</p> <p>EXAMINATION [3] - 9:19, 11:23, 167:2</p> <p>example [8] - 16:23, 19:13, 43:5, 49:15, 50:19, 101:8, 142:10, 145:14</p> <p>examples [3] - 16:22, 67:6, 113:2</p> <p>excellent [3] - 53:2, 53:5, 102:2</p> <p>except [2] - 59:7, 86:5</p> <p>exception [2] - 50:25, 63:9</p> <p>exceptional [6] - 159:12, 159:24, 160:1, 160:8, 160:11, 160:12</p> <p>exchange [1] - 21:24</p> <p>exclusive [4] - 101:19, 102:6, 102:19, 107:13</p> <p>excuse [6] - 34:3, 38:16, 39:19, 80:4, 113:11, 116:7</p> <p>exhibit [7] - 69:16, 70:8, 72:6, 123:3, 156:6, 169:23, 170:3</p> <p>Exhibit [2] - 8:10, 8:22</p> <p>exist [1] - 18:22</p> <p>existed [1] - 67:4</p> <p>existing [3] - 19:10, 119:20, 124:10</p> <p>exists [1] - 37:7</p> <p>exit [1] - 95:5</p> <p>expands [1] - 50:18</p> <p>expect [1] - 5:23</p> <p>expense [6] - 16:3, 18:2, 19:12, 21:6, 102:9, 156:24</p> <p>expensive [1] - 106:16</p> <p>experience [12] - 9:24, 13:25, 14:1, 18:6,</p>	<p>24:20, 64:14, 65:12, 69:12, 96:9, 97:1, 109:6, 109:7</p> <p>experientially [1] - 55:19</p> <p>expert [13] - 11:11, 11:18, 12:2, 19:23, 22:6, 22:7, 58:12, 96:5, 96:14, 137:12, 138:6, 140:9, 140:10</p> <p>expert's [1] - 95:22</p> <p>experts [5] - 52:12, 84:22, 96:7, 134:14, 138:12</p> <p>experts' [1] - 18:10</p> <p>Expiration [1] - 173:16</p> <p>explain [3] - 12:7, 23:17, 145:2</p> <p>explained [1] - 65:1</p> <p>explicitly [1] - 143:21</p> <p>explore [1] - 101:4</p> <p>explored [1] - 57:7</p> <p>exponentially [1] - 144:20</p> <p>expressed [2] - 35:25, 107:14</p> <p>extend [1] - 172:1</p> <p>extended [4] - 114:13, 171:13, 171:14, 171:21</p> <p>extending [1] - 171:23</p> <p>extends [1] - 171:17</p> <p>extension [1] - 172:2</p> <p>extensions [1] - 171:1</p> <p>extensive [3] - 18:6, 42:2, 149:17</p> <p>extensively [1] - 136:4</p> <p>extent [1] - 77:16</p> <p>extra [1] - 22:9</p> <p>extremely [3] - 19:21, 20:3, 50:7</p>	<p>113:21, 121:1, 129:20, 129:22, 141:11, 151:21, 159:24, 161:4, 161:5, 161:15, 166:7, 166:8</p> <p>Facing [1] - 26:11</p> <p>fact [20] - 11:2, 14:3, 24:18, 26:16, 29:13, 30:18, 31:3, 37:6, 44:25, 51:16, 68:13, 82:4, 82:8, 82:12, 82:15, 83:17, 86:3, 86:10, 94:19, 128:23</p> <p>factors [2] - 122:9, 122:13</p> <p>Fair [2] - 3:20, 112:19</p> <p>fair [4] - 34:7, 36:15, 59:6, 104:17</p> <p>faith [1] - 103:4</p> <p>fallow [1] - 45:1</p> <p>falls [1] - 95:4</p> <p>families [1] - 26:18</p> <p>family [12] - 14:20, 43:10, 43:24, 44:5, 63:6, 63:18, 92:18, 97:4, 99:2, 131:21, 145:16, 149:18</p> <p>far [8] - 36:25, 37:5, 37:7, 72:10, 73:18, 105:1, 105:3, 161:21</p> <p>favorable [1] - 161:5</p> <p>feat [1] - 133:15</p> <p>February [7] - 6:8, 6:10, 13:11, 93:8, 93:22, 93:23, 121:9</p> <p>feet [18] - 23:17, 23:20, 24:5, 24:7, 24:12, 43:17, 43:18, 43:23, 44:9, 44:12, 45:17, 45:20, 46:12, 46:13, 64:21, 73:10, 155:5</p> <p>FEMALE [10] - 92:8, 92:22, 93:1, 108:10, 119:14, 124:15, 124:20, 126:20, 127:1, 165:9</p> <p>fenestration [1] - 42:5</p> <p>few [13] - 14:5, 15:24, 20:25, 21:11, 34:14, 56:19, 66:16, 86:5, 86:6, 105:22, 161:13, 162:25, 170:15</p> <p>field [2] - 10:14, 11:18</p> <p>fight [1] - 132:11</p> <p>figured [1] - 80:13</p> <p>figuring [2] - 7:21, 61:14</p>
F				
<p>face [1] - 46:14</p> <p>facilities [10] - 25:13, 27:17, 34:19, 64:17, 94:21, 112:25, 113:1, 115:14, 121:2, 141:5</p> <p>facility [41] - 1:6, 22:19, 23:2, 24:25, 25:12, 25:15, 31:16, 33:9, 33:12, 33:25, 44:7, 58:10, 58:25, 59:11, 61:18, 61:23, 62:8, 64:11, 64:12, 64:13, 65:13, 68:16, 79:19, 93:17, 94:16,</p>				

file [1] - 71:10 filed [2] - 6:5, 8:11 final [3] - 48:6, 107:4, 138:24 finally [6] - 13:3, 19:9, 22:5, 33:22, 37:10, 42:19 financial [3] - 17:17, 173:8, 173:9 fine [2] - 164:3, 171:25 finish [2] - 138:15, 138:16 fire [4] - 20:17, 20:19, 116:13, 116:16 firehouse [1] - 116:17 firemen [1] - 116:18 firm [4] - 5:19, 10:3, 10:16, 78:4 firm's [1] - 14:1 first [33] - 6:7, 6:10, 10:23, 13:9, 14:8, 16:1, 18:16, 24:15, 27:11, 30:11, 32:9, 33:5, 34:11, 34:23, 37:18, 39:13, 40:15, 40:16, 43:3, 51:8, 76:16, 93:14, 99:15, 99:16, 99:18, 114:15, 123:15, 128:17, 130:1, 141:17, 151:15, 155:5, 160:22 fit [2] - 86:4, 131:4 fitted [2] - 160:14, 160:16 five [8] - 35:5, 44:1, 57:10, 108:14, 109:17, 111:23, 130:11, 145:18 five-and-a-half [1] - 57:10 five-minute [2] - 108:14, 111:23 five-year [2] - 35:5, 130:11 fix [1] - 21:13 flaws [1] - 50:19 flexible [1] - 39:19 flood [1] - 127:10 flooded [1] - 134:20 floor [5] - 23:15, 43:16, 64:19, 65:1, 65:2 flow [2] - 59:12, 136:23 focus [5] - 10:15, 41:24, 51:20, 62:16, 160:22 focused [2] - 25:19, 41:12	focusing [1] - 41:10 folks [2] - 151:3, 165:20 follow [6] - 56:12, 58:8, 61:8, 80:5, 82:17, 85:22 follow-up [3] - 80:5, 82:17, 85:22 following [1] - 35:6 follows [3] - 9:10, 24:25, 32:8 FONOROW [17] - 125:3, 125:6, 125:10, 125:16, 126:3, 126:18, 127:4, 127:16, 127:24, 128:6, 129:1, 129:9, 129:14, 129:18, 130:3, 130:21, 131:13 Fonorow [2] - 3:23, 125:3 food [1] - 95:2 foot [6] - 46:16, 47:4, 47:5, 47:11, 105:17, 131:21 footage [2] - 131:22, 132:22 footprint [3] - 65:6, 65:11, 132:9 foregoing [1] - 173:5 forest [1] - 163:19 forget [1] - 105:14 form [7] - 15:18, 42:22, 70:15, 70:17, 70:25, 71:3, 110:17 formal [1] - 77:5 forth [1] - 60:23 forthcoming [1] - 121:13 fortunately [1] - 140:6 forty [1] - 119:15 forty-seven [1] - 119:15 forum [1] - 166:15 forward [6] - 81:7, 93:4, 93:6, 112:6, 131:16, 169:20 foundational [2] - 143:11, 143:12 founding [1] - 10:3 four [15] - 23:25, 32:7, 32:8, 44:21, 44:24, 54:22, 57:18, 57:19, 59:21, 60:12, 68:2, 68:3, 68:8, 145:19, 161:1 four-prong [4] - 68:2, 68:3, 68:8, 161:1	Francesca [2] - 3:12, 79:5 free [3] - 154:5, 154:20, 158:17 friends [1] - 99:2 FROHLICH [5] - 2:21, 5:5, 5:13, 123:15, 123:21 frontage [1] - 60:13 full [1] - 9:12 fully [1] - 20:19 function [6] - 19:3, 20:9, 45:9, 52:2, 144:2, 145:22 functionality [1] - 64:23 functioning [1] - 147:3 functions [1] - 36:6 fund [1] - 91:17 fundamentally [1] - 31:12 funding [2] - 106:18, 157:8 funds [2] - 91:20, 107:9 furnish [1] - 85:3 furnished [1] - 83:2 furtherance [1] - 143:23 future [2] - 142:8, 172:6	general [8] - 28:10, 31:13, 34:2, 40:23, 41:5, 51:23, 141:19, 145:6 generalized [3] - 101:20, 101:25, 104:5 generally [4] - 24:15, 27:6, 29:16, 85:16 generate [1] - 66:17 generated [3] - 18:23, 21:15, 49:24 generates [1] - 20:3 generation [5] - 28:8, 36:7, 58:21, 96:11, 96:13 generator [7] - 19:22, 20:5, 20:7, 22:8, 22:15, 49:21, 96:16 genius [1] - 146:6 gentlemen [1] - 171:8 GEORGE [2] - 3:3, 4:3 George [4] - 8:24, 9:15, 9:21, 78:5 George's [1] - 150:2 Gerrit [2] - 101:12, 105:25 Gettysburg [1] - 149:16 given [14] - 21:21, 30:19, 35:24, 47:8, 49:5, 52:10, 52:12, 63:16, 64:24, 94:25, 102:11, 104:4, 161:21, 164:10 gleaned [1] - 13:14 Glen [2] - 3:14, 80:22 glossed [1] - 52:4 go-around [1] - 76:16 Goal [7] - 27:11, 28:4, 117:16, 118:2, 118:20, 118:25, 119:23 goal [9] - 27:20, 27:22, 27:24, 28:7, 118:14, 118:24, 120:2, 143:22, 170:10 goals [14] - 27:8, 31:5, 34:14, 85:12, 103:7, 104:8, 104:12, 107:14, 117:15, 118:11, 118:17, 119:24, 119:25, 143:23 God [1] - 9:5 grade [1] - 21:13 graduate [1] - 10:10 Graduate [1] - 10:11 grant [11] - 6:2, 27:10, 31:3, 32:14, 33:24, 38:22, 39:11, 40:8, 41:16, 47:23, 48:10 granted [1] - 171:1 granting [3] - 23:7, 29:23, 37:22 grants [4] - 150:16, 157:19, 157:21 grass [1] - 20:18 great [7] - 29:8, 33:3, 57:2, 71:25, 77:17, 170:14, 171:3 greater [9] - 35:13, 35:16, 43:17, 46:16, 67:11, 117:18, 119:17, 120:3, 144:21 Green [3] - 91:20, 106:22, 107:9 green [2] - 110:2, 110:21 ground [5] - 24:7, 24:11, 46:11, 47:4, 164:24 group [2] - 31:15, 57:7 Group [1] - 10:3 Grove [2] - 9:8, 10:4 growing [2] - 141:25, 142:13 guess [9] - 5:2, 29:6, 54:20, 55:1, 104:23, 115:5, 136:14, 139:24, 142:6 guests [1] - 64:9 guidance [2] - 32:2, 82:6 guide [3] - 40:19, 107:6, 143:3 guideline [1] - 29:14 guy [1] - 55:16 guys [3] - 136:22, 136:25, 171:3	Hal [2] - 93:10, 93:11 half [3] - 57:10, 64:22, 73:4 half-story [1] - 64:22 hand [5] - 9:2, 76:18, 117:6, 141:19 happenings [1] - 85:19 happy [7] - 54:10, 77:2, 85:3, 113:17, 114:24, 163:6, 163:12 hardship [5] - 30:7, 39:14, 39:15, 146:17, 160:21 Haring [3] - 101:10,
G				
G-E-L-F-A-N-D [1] - 112:15 GAIL [1] - 2:4 Gail [2] - 5:19, 169:18 gain [1] - 108:8 GALLAGHER [2] - 1:12, 5:8 Gallagher [1] - 5:14 Gambuti [2] - 4:4, 139:22 GAMBUTI [6] - 139:22, 140:2, 140:20, 141:1, 142:5, 142:15 gap [1] - 45:21 garages [1] - 60:23 GELFAND [12] - 112:7, 112:14, 112:18, 112:21, 113:8, 113:17, 114:11, 114:17, 115:5, 115:12, 115:19, 116:2 Gelfand [3] - 3:19, 112:7, 112:14				
H				

<p>101:13, 105:25 Harrington [5] - 3:15, 80:23, 80:25, 88:17, 147:14 HAVERILLA [8] - 1:12, 66:1, 66:3, 79:14, 111:16, 115:7, 115:17, 115:25 headquartered [1] - 10:4 health [4] - 25:1, 40:22, 41:5, 128:22 healthcare [2] - 25:10, 68:16 hear [6] - 14:8, 66:13, 68:5, 102:21, 153:16, 169:7 heard [30] - 13:17, 14:2, 14:11, 16:10, 19:15, 19:23, 32:15, 32:19, 35:19, 41:19, 42:2, 44:14, 44:16, 46:10, 46:20, 49:20, 52:10, 60:17, 66:11, 79:3, 94:15, 96:2, 106:17, 131:15, 139:20, 142:19, 144:22, 154:9, 166:24, 167:10 hearing [8] - 6:7, 6:10, 34:24, 70:8, 114:15, 128:17, 130:1, 141:17 hearings [9] - 6:24, 10:25, 13:4, 13:5, 18:15, 36:12, 134:15, 135:4, 139:1 hearken [1] - 33:18 hearkens [1] - 39:25 heart [1] - 140:8 height [7] - 23:19, 23:20, 23:22, 44:8, 64:6, 72:10, 73:13 held [2] - 38:3, 111:24 hello [5] - 79:5, 96:18, 131:19, 148:16, 148:17 help [5] - 9:5, 16:24, 17:4, 25:11, 91:19 helps [1] - 107:6 hence [1] - 63:23 hereby [1] - 173:5 hi [3] - 5:17, 94:2, 131:18 high [1] - 62:3 high-density [1] - 62:3 higher [2] - 64:22, 145:1 highest [3] - 36:6, 159:2, 159:4</p>	<p>highlighted [2] - 137:12, 137:13 highlights [1] - 137:12 highly [1] - 126:3 Himeji [2] - 37:16, 37:23 historic [27] - 19:9, 37:8, 42:8, 42:16, 79:21, 83:19, 84:2, 101:12, 102:8, 102:9, 102:15, 103:14, 103:19, 103:24, 112:24, 113:11, 113:20, 115:15, 116:3, 116:4, 120:25, 149:23, 154:11, 157:4, 157:7, 162:8 Historic [1] - 112:9 historical [1] - 126:6 Historical [1] - 112:9 history [5] - 111:10, 148:21, 149:13, 149:21, 157:6 hit [4] - 135:15, 135:16, 136:18, 136:21 Holbrook [3] - 17:5, 21:11, 136:23 holding [1] - 61:7 HOLLOWAY [1] - 1:16 home [9] - 31:15, 33:16, 43:24, 44:5, 94:10, 97:3, 97:5, 131:21, 135:10 homes [5] - 60:12, 60:23, 109:17, 110:9 hometown [1] - 11:3 honest [2] - 53:1, 133:19 honestly [2] - 45:2, 92:13 hope [6] - 6:12, 54:4, 77:25, 78:2, 93:24, 170:21 Hope [1] - 149:18 hopeful [1] - 77:7 hopefully [5] - 68:19, 78:5, 140:18, 147:5, 168:21 hospital [2] - 31:14, 68:17 house [17] - 83:20, 84:2, 102:15, 113:12, 113:20, 113:22, 114:16, 114:24, 115:2, 115:4, 115:15, 116:3, 116:8, 150:9, 157:4, 157:7, 157:16</p>	<p>House [2] - 101:13, 105:25 houses [5] - 38:8, 59:21, 87:10, 109:23, 112:25 Housing [6] - 1:5, 15:24, 16:9, 26:12, 34:24, 42:1 housing [38] - 15:9, 25:2, 25:9, 25:20, 26:16, 26:18, 27:13, 27:21, 27:22, 27:23, 28:2, 28:6, 28:10, 28:11, 28:12, 28:16, 28:17, 28:20, 28:21, 33:24, 34:5, 35:3, 35:18, 37:3, 42:20, 42:23, 51:5, 98:18, 99:1, 99:3, 100:14, 128:24, 156:17, 156:18, 161:7, 161:13, 161:22 hugely [1] - 51:24 hypothetical [1] - 87:8 hypotheticals [2] - 87:6, 87:11</p>	<p>51:18, 126:6, 147:21, 157:5 important [12] - 6:17, 14:21, 15:24, 18:10, 53:5, 64:20, 96:22, 97:25, 126:21, 127:19, 144:15, 145:7 importantly [2] - 22:14, 48:18 imposed [2] - 32:18, 36:11 imposition [2] - 68:3, 68:8 impossible [1] - 171:13 improper [3] - 42:12, 166:3, 166:12 improve [1] - 67:1 improved [2] - 23:12, 43:3 improvements [1] - 156:22 IN [1] - 1:3 Inc [1] - 33:23 incident [1] - 135:8 include [5] - 28:1, 45:10, 68:18, 147:25, 148:10 included [2] - 69:4, 156:15 includes [1] - 31:14 including [2] - 10:18, 33:19 income [1] - 161:7 incorporated [2] - 113:23, 115:15 incorporation [2] - 112:24, 119:11 increase [5] - 35:8, 93:19, 130:9, 133:1, 142:10 increased [6] - 26:17, 46:5, 46:10, 54:1, 67:10, 130:18 increases [1] - 36:9 increasing [1] - 35:11 indicated [4] - 78:3, 99:23, 123:1, 165:14 indicator [1] - 50:1 indices [1] - 146:19 indigenous [1] - 154:4 individual [3] - 25:10, 42:25, 147:8 individuals [1] - 26:18 indoors [1] - 132:13 indulgence [1] - 43:2 information [8] - 12:13, 14:8, 85:2, 113:9, 121:12,</p>	<p>121:14, 127:18, 136:15 informative [1] - 142:25 inherent [10] - 83:10, 83:21, 83:23, 83:24, 84:5, 84:8, 131:3, 135:9, 147:18, 147:19 inherently [44] - 29:14, 29:22, 30:3, 31:6, 31:8, 31:17, 31:20, 32:2, 32:5, 33:2, 33:9, 33:25, 34:5, 34:10, 41:1, 50:24, 51:8, 51:10, 51:14, 101:18, 143:8, 144:1, 144:14, 144:15, 144:19, 144:21, 144:24, 145:3, 145:10, 146:12, 146:15, 146:21, 148:1, 148:8, 148:10, 153:13, 153:16, 160:19, 160:22, 160:25, 161:19, 161:21, 161:23, 167:6 initial [2] - 12:8, 129:25 input [2] - 6:13, 146:21 insect [1] - 163:17 instance [3] - 17:13, 27:2, 102:5 instances [1] - 14:7 instead [2] - 132:17, 155:19 Institute [1] - 10:8 insure [1] - 27:21 intelligent [1] - 47:1 intended [6] - 38:4, 43:21, 44:18, 46:25, 65:2, 99:4 intense [5] - 22:15, 57:5, 58:14, 60:10, 62:9 intensities [1] - 119:20 intensity [2] - 59:2, 117:20 intent [7] - 45:8, 45:13, 46:19, 47:5, 47:9, 79:24, 118:10 interest [6] - 32:9, 34:12, 34:13, 106:14, 173:8, 173:9 Interested [1] - 2:11 interested [1] - 49:22</p>
--	---	---	--	--

<p>interesting [3] - 43:8, 46:13, 49:18</p> <p>internal [1] - 74:18</p> <p>interpretation [1] - 143:6</p> <p>interpreted [1] - 27:25</p> <p>interpreter [1] - 149:23</p> <p>interrupts [1] - 62:7</p> <p>Interstate [1] - 149:22</p> <p>intimidated [2] - 165:19, 165:22</p> <p>intra [1] - 112:25</p> <p>intra-medical [1] - 112:25</p> <p>introductory [4] - 17:10, 36:4, 36:18, 134:12</p> <p>invaluable [3] - 153:24, 156:9, 156:11</p> <p>inventory [1] - 21:19</p> <p>investigated [1] - 135:2</p> <p>investment [2] - 155:20, 156:12</p> <p>invoked [1] - 33:10</p> <p>involved [5] - 107:24, 113:14, 150:12, 157:6, 173:8</p> <p>irrelevant [2] - 152:10, 158:2</p> <p>issue [8] - 21:10, 21:14, 50:20, 50:21, 108:9, 135:13, 135:14, 143:13</p> <p>issued [1] - 122:19</p> <p>issues [5] - 19:14, 21:12, 24:15, 112:23, 168:19</p> <p>items [4] - 17:2, 17:5, 81:6, 171:20</p> <p>itself [3] - 48:11, 151:7, 153:18</p>	<p>JOHN [1] - 2:20</p> <p>John [2] - 50:12, 63:3</p> <p>judge [1] - 165:2</p> <p>June [2] - 26:3, 26:6</p> <p>justify [3] - 6:2, 117:21, 145:14</p> <p>juxtaposition [1] - 50:3</p>	<p>Lake [1] - 2:6</p> <p>Lakeview [4] - 3:24, 76:24, 77:3, 131:17</p> <p>land [38] - 10:16, 10:21, 12:16, 12:17, 26:8, 26:15, 27:15, 27:17, 29:3, 29:11, 34:16, 34:20, 42:12, 42:15, 62:1, 81:9, 81:10, 82:1, 82:5, 88:7, 101:22, 104:5, 117:19, 119:18, 143:18, 143:22, 144:12, 145:25, 146:3, 146:6, 146:9, 147:17, 148:3, 148:13, 159:19, 161:12, 167:14, 167:18</p> <p>Land [14] - 6:1, 12:20, 30:17, 31:7, 40:10, 48:9, 51:19, 66:22, 84:20, 137:24, 140:14, 143:7, 147:25, 160:4</p> <p>lands [3] - 40:21, 101:4, 148:2</p> <p>landscape [5] - 13:19, 74:13, 137:13, 138:7, 138:9</p> <p>landscaping [4] - 21:19, 22:1, 22:3, 74:15</p> <p>Lane [2] - 4:5, 139:23</p> <p>lane [1] - 20:19</p> <p>Langenstein [1] - 74:12</p> <p>language [4] - 28:23, 47:18, 51:19, 104:22</p> <p>large [3] - 18:4, 33:15, 133:3</p> <p>larger [5] - 23:16, 23:18, 65:10, 145:11, 152:16</p> <p>Last [4] - 4:16, 4:18, 8:9, 8:21</p> <p>last [12] - 7:5, 8:12, 9:12, 57:4, 64:2, 64:16, 94:7, 117:10, 120:16, 128:21, 146:24, 171:9</p> <p>lastly [5] - 11:1, 13:8, 24:6, 24:10, 30:5</p> <p>lauding [1] - 60:25</p> <p>laughter [4] - 87:3, 116:19, 117:1, 140:1</p> <p>Laura [2] - 3:22, 120:13</p> <p>LAURA [2] - 173:3, 173:14</p>	<p>Law [15] - 6:1, 12:21, 30:17, 31:7, 40:10, 48:9, 51:19, 66:23, 84:20, 105:10, 137:24, 140:14, 143:7, 147:25, 160:4</p> <p>law [11] - 12:25, 15:10, 29:11, 53:4, 87:25, 89:18, 105:9, 138:2, 144:3, 146:4, 146:6</p> <p>lawfully [1] - 39:18</p> <p>lawn [1] - 62:3</p> <p>Lawn [2] - 3:20, 112:19</p> <p>lead [1] - 149:24</p> <p>leading [2] - 150:4</p> <p>least [4] - 60:7, 62:18, 128:21, 170:8</p> <p>leave [5] - 37:6, 84:13, 114:24, 116:10, 125:7</p> <p>leaves [1] - 165:6</p> <p>leaving [2] - 18:18, 59:7</p> <p>left [6] - 74:2, 74:11, 74:19, 75:20, 111:4, 126:21</p> <p>legal [1] - 112:23</p> <p>legible [1] - 46:24</p> <p>lend [1] - 40:25</p> <p>length [2] - 14:24, 122:11</p> <p>Leonard [2] - 3:21, 117:8</p> <p>less [21] - 18:17, 19:18, 22:14, 33:10, 57:5, 57:15, 58:9, 59:11, 59:12, 61:23, 62:9, 79:19, 86:6, 94:25, 145:4, 152:1, 152:2, 152:5, 153:4</p> <p>letter [3] - 71:13, 93:25, 94:1</p> <p>level [9] - 20:10, 65:1, 96:14, 132:9, 132:10, 143:4, 157:8, 158:3, 161:16</p> <p>levels [4] - 20:4, 27:13, 34:16, 70:5</p> <p>Levine [2] - 3:18, 108:16</p> <p>LEVINE [16] - 108:16, 108:24, 109:3, 109:6, 109:10, 109:13, 109:15, 110:2, 110:10, 110:13, 110:18, 110:21, 110:23, 111:1, 111:5, 111:9</p> <p>license [2] - 11:9, 15:15</p> <p>License [1] - 173:15</p> <p>licensed [3] - 10:6, 24:25, 25:1</p> <p>lie [1] - 45:1</p> <p>light [1] - 132:19</p> <p>lights [3] - 20:11, 132:19, 135:23</p> <p>likely [1] - 26:15</p> <p>limitation [1] - 106:17</p> <p>limited [3] - 31:14, 76:13, 76:14</p> <p>line [11] - 20:7, 20:12, 23:20, 44:9, 45:6, 45:7, 45:19, 45:24, 47:12, 53:25, 69:20</p> <p>lines [1] - 126:10</p> <p>lips [1] - 61:10</p> <p>list [5] - 106:1, 106:11, 106:21, 113:4, 115:14</p> <p>listed [3] - 17:21, 116:3, 118:12</p> <p>listen [1] - 87:16</p> <p>listened [3] - 20:12, 20:23, 20:24</p> <p>literature [5] - 12:25, 34:7, 82:5, 96:12, 138:2</p> <p>live [13] - 44:18, 94:23, 96:25, 98:2, 98:12, 98:13, 99:6, 99:11, 99:15, 126:8, 131:9, 133:25</p> <p>lived [1] - 125:22</p> <p>living [30] - 1:6, 15:2, 18:7, 19:21, 20:3, 22:18, 23:2, 24:24, 25:2, 25:12, 25:14, 33:12, 33:16, 36:25, 41:2, 42:22, 43:11, 44:7, 84:17, 101:20, 102:17, 102:24, 113:1, 120:6, 121:1, 128:1, 128:10, 128:18, 141:5, 161:22</p> <p>Living [1] - 113:5</p> <p>livings [1] - 128:12</p> <p>LLC [3] - 1:4, 1:20, 2:8</p> <p>loading [5] - 23:25, 44:21, 54:22, 56:16, 56:17</p> <p>local [7] - 12:17, 85:14, 85:16, 98:21, 122:1, 137:25, 149:21</p> <p>located [4] - 14:19, 101:4, 102:23, 153:15</p>
<p>J</p> <p>Jane [2] - 3:24, 131:17</p> <p>jargon [1] - 144:24</p> <p>Jayber [1] - 33:22</p> <p>Jersey [17] - 1:21, 2:6, 2:10, 9:8, 10:4, 10:7, 10:22, 11:3, 11:6, 18:8, 142:4, 146:6, 173:4, 173:5, 173:7, 173:10, 173:15</p> <p>Jim [1] - 74:12</p> <p>job [3] - 48:21, 53:5, 140:10</p> <p>Joe [1] - 15:18</p>	<p>K</p> <p>Kaitlin [2] - 3:21, 117:8</p> <p>keep [7] - 47:9, 83:18, 84:6, 111:5, 115:8, 161:18</p> <p>keeping [2] - 84:1, 84:2</p> <p>keeps [1] - 142:13</p> <p>KEIL [4] - 1:14, 64:5, 65:12, 65:23</p> <p>Keil [1] - 3:9</p> <p>kept [1] - 73:9</p> <p>Kessler [1] - 38:9</p> <p>key [2] - 106:12, 143:13</p> <p>kids [1] - 135:19</p> <p>killing [1] - 133:5</p> <p>kind [8] - 16:14, 30:24, 45:12, 63:7, 66:18, 141:6, 164:4, 164:5</p> <p>KING [7] - 96:18, 97:12, 97:15, 97:21, 98:11, 99:5, 99:10</p> <p>King [2] - 3:16, 96:18</p> <p>kitchen [1] - 25:13</p> <p>kitchenette [1] - 25:5</p> <p>Klein [2] - 3:19, 108:24</p> <p>knowledge [5] - 13:14, 91:24, 91:25, 92:4, 92:5</p> <p>knowledgeable [1] - 158:22</p> <p>known [1] - 10:12</p> <p>knows [8] - 8:2, 22:25, 29:17, 30:10, 73:17, 93:11, 107:1, 129:14</p> <p>Korean [1] - 101:14</p> <p>Krousos [2] - 33:5, 33:7</p> <p>Kurt [2] - 4:5, 142:22</p>	<p>L</p> <p>label [1] - 161:19</p> <p>lack [1] - 28:10</p> <p>ladies [1] - 171:7</p> <p>lady [1] - 117:5</p> <p>Lagenstein [1] - 21:22</p>	

location [8] - 35:1, 52:13, 68:18, 83:8, 86:18, 102:24, 117:14, 162:1 locations [5] - 35:1, 101:21, 117:19, 119:19, 121:3 lockable [1] - 25:6 LOI [1] - 19:8 look [32] - 13:13, 39:3, 39:7, 44:6, 48:25, 49:4, 51:4, 69:23, 71:9, 75:6, 75:8, 75:11, 75:18, 75:21, 80:16, 85:5, 85:11, 86:15, 88:19, 88:20, 88:24, 89:6, 89:7, 93:16, 104:7, 106:22, 118:9, 123:4, 126:11, 141:22, 144:10, 147:6 looked [4] - 12:22, 35:4, 53:23, 142:10 looking [10] - 65:5, 86:1, 86:5, 87:12, 89:2, 103:3, 103:6, 118:25, 119:6, 131:1 lose [1] - 157:7 lost [2] - 97:22, 137:17 LOULODIS [1] - 1:15 love [1] - 125:22 low [14] - 19:21, 20:3, 20:10, 22:7, 36:7, 47:15, 49:21, 94:14, 94:20, 95:11, 96:11, 96:16, 105:15, 161:7 low-impact [1] - 94:14 low-income [1] - 161:7 low-level [1] - 20:10 low-traffic [3] - 36:7, 95:11, 96:11 lower [3] - 47:9, 61:19, 166:9 luxury [1] - 125:23 lynchpin [1] - 143:11	Magarro [2] - 3:17, 100:17 MAGARRO [7] - 100:17, 100:23, 101:1, 102:14, 102:22, 103:18, 104:15 MAGGIO [24] - 1:13, 52:19, 52:25, 57:10, 95:24, 105:6, 105:8, 105:13, 105:18, 106:24, 109:24, 110:7, 110:11, 110:16, 110:20, 110:22, 110:24, 111:3, 111:7, 114:14, 114:19, 114:22, 138:19, 139:10 male [1] - 131:8 MALE [2] - 92:23, 116:20 MAMARY [27] - 1:11, 5:1, 8:5, 11:19, 53:1, 53:7, 53:10, 53:18, 54:3, 54:14, 54:19, 54:25, 55:8, 55:11, 55:23, 56:3, 56:10, 56:18, 56:25, 58:4, 59:17, 60:5, 60:15, 61:6, 62:23, 76:8, 100:5 Mamary [1] - 3:7 management [2] - 8:12, 18:17 Management [2] - 4:17, 8:21 manner [3] - 34:19, 40:21, 52:2 map [2] - 62:5, 74:10 March [4] - 93:8, 93:22, 93:23, 121:9 mark [2] - 8:14, 170:2 marked [10] - 7:14, 7:16, 8:10, 8:22, 26:4, 69:16, 70:8, 70:18, 72:7, 74:14 market [6] - 28:5, 34:25, 122:12, 128:20, 130:2, 141:17 mass [1] - 163:18 Master [52] - 12:18, 26:24, 27:4, 30:25, 34:13, 35:3, 83:2, 83:5, 83:13, 83:17, 84:13, 84:24, 85:1, 85:5, 85:14, 90:17, 90:22, 90:24, 91:6, 91:11, 98:16, 98:21,	100:19, 100:20, 101:22, 103:1, 103:3, 103:5, 103:6, 103:22, 104:8, 104:13, 104:23, 106:9, 107:15, 116:4, 116:5, 117:16, 118:4, 118:8, 118:11, 118:14, 118:16, 119:7, 119:24, 137:25, 138:1, 143:22, 143:24, 144:2, 144:9, 153:12 master [1] - 10:18 master's [1] - 149:13 material [1] - 42:5 materials [1] - 127:8 math [3] - 57:22, 93:11, 96:24 matter [9] - 10:25, 13:4, 14:12, 52:5, 60:25, 73:5, 153:15, 168:21, 172:5 MATTER [1] - 1:3 matters [1] - 11:12 maximum [6] - 23:15, 23:19, 43:16, 44:8, 61:15, 61:23 mayor [1] - 92:1 McElwee [14] - 15:18, 15:21, 16:10, 32:10, 35:19, 93:8, 113:25, 122:8, 125:14, 125:15, 125:16, 128:17, 129:24, 141:16 McElwee's [3] - 33:18, 63:20, 113:25 McGowan [1] - 57:5 McGuillie [1] - 125:13 McGuillie's [1] - 125:12 mean [15] - 32:6, 49:4, 51:7, 54:9, 56:3, 70:10, 95:11, 107:13, 118:13, 135:20, 141:7, 151:9, 153:8, 158:16, 170:11 meaning [1] - 121:5 meaningless [1] - 158:25 means [3] - 39:14, 144:25, 156:11 meant [1] - 161:1 measurement [1] - 73:15 measuring [1] - 79:22 median [3] - 129:2,	129:4, 129:11 Medicaid [2] - 15:7, 100:7 medical [1] - 112:25 Medici [1] - 31:23 MEESE [1] - 2:4 Meese [1] - 5:20 meet [16] - 23:22, 28:13, 28:16, 35:25, 43:11, 44:12, 45:6, 45:8, 45:13, 48:20, 50:18, 51:8, 56:16, 64:20, 144:20, 146:22 meeting [25] - 7:22, 19:8, 54:10, 57:4, 68:13, 70:19, 71:18, 72:4, 76:6, 76:19, 77:8, 77:10, 77:21, 77:22, 111:25, 112:3, 123:16, 149:2, 158:15, 163:8, 168:17, 170:9, 170:16, 171:9, 171:10 meetings [3] - 91:13, 96:22, 116:25 member [9] - 80:24, 88:19, 89:9, 89:10, 89:14, 89:17, 89:19, 89:22, 163:3 MEMBER [22] - 1:11, 1:12, 1:12, 1:13, 1:13, 1:14, 1:14, 1:15, 1:15, 1:16, 1:16, 92:8, 92:23, 93:1, 108:10, 116:20, 119:14, 124:15, 124:20, 126:20, 127:1, 165:9 Members [1] - 76:23 MEMBERS [1] - 92:22 members [11] - 5:12, 9:22, 12:8, 79:14, 79:15, 87:10, 90:14, 97:4, 116:16, 169:2, 169:13 membership [2] - 6:18, 6:25 memo [1] - 13:10 memory [3] - 33:20, 69:19, 129:8 mention [5] - 17:15, 19:22, 125:25, 144:22, 162:11 mentioned [34] - 13:4, 15:16, 18:9, 18:14, 19:7, 20:25, 21:11, 31:6, 32:1, 32:23, 33:21, 34:14, 34:23,	36:3, 36:17, 39:12, 43:4, 48:17, 64:6, 65:21, 81:3, 81:22, 85:18, 102:14, 118:10, 125:24, 135:9, 136:22, 137:10, 146:15, 146:23, 157:4, 160:6, 169:21 merely [1] - 87:21 merit [2] - 84:19, 147:8 met [1] - 140:19 MICHAEL [1] - 1:13 Michael [1] - 3:19 middle [1] - 135:11 might [9] - 32:14, 36:2, 62:19, 67:3, 69:23, 70:21, 83:21, 92:24, 141:14 mile [2] - 128:12, 129:3 million [4] - 91:17, 132:24, 155:13, 155:25 mind [2] - 141:7, 161:18 minimizing [1] - 65:19 minimum [1] - 25:4 minus [1] - 61:21 minute [3] - 37:15, 108:14, 111:23 minutes [1] - 140:16 mispronounced [1] - 125:17 missing [1] - 65:16 misunderstanding [1] - 136:13 mitigate [1] - 36:1 MLUL [2] - 148:9, 169:16 modification [1] - 17:4 Mom [1] - 129:3 moments [2] - 21:1, 21:11 money [5] - 91:19, 106:2, 111:2, 111:4, 111:6 Montclair [3] - 9:8, 10:4, 11:3 month [3] - 77:16, 93:10, 138:17 month's [1] - 149:1 months [4] - 114:15, 134:14, 137:16, 146:20 Montvale [1] - 2:10 monument [1] - 47:16 moot [1] - 107:22 morals [1] - 40:22
--	--	---	--	---

<p>most [13] - 9:6, 11:1, 22:14, 37:23, 51:12, 53:4, 96:23, 97:1, 98:2, 101:3, 107:20, 117:22, 155:4</p> <p>mostly [1] - 158:11</p> <p>mother [1] - 96:25</p> <p>Mother's [1] - 95:4</p> <p>motion [2] - 76:5, 171:19</p> <p>mountaintop [1] - 159:5</p> <p>move [6] - 20:13, 61:10, 98:25, 115:18, 116:15, 116:23</p> <p>moved [3] - 76:7, 115:9, 157:16</p> <p>moves [1] - 169:19</p> <p>moving [2] - 16:16, 131:10</p> <p>MR [340] - 5:3, 5:7, 5:10, 6:7, 6:17, 6:22, 7:11, 7:13, 7:17, 7:20, 8:16, 8:19, 9:1, 9:6, 9:11, 9:13, 9:17, 9:18, 11:16, 49:11, 50:9, 50:11, 50:13, 50:17, 51:25, 52:7, 52:16, 52:19, 52:25, 54:9, 56:12, 57:2, 57:10, 57:11, 57:14, 57:19, 57:24, 58:6, 58:23, 59:4, 59:6, 59:10, 59:16, 61:8, 61:10, 62:21, 62:25, 63:5, 63:11, 63:14, 63:25, 64:2, 64:5, 65:12, 65:23, 66:4, 66:5, 66:8, 67:5, 67:16, 67:20, 67:23, 67:25, 68:6, 68:25, 69:2, 69:3, 69:9, 69:11, 69:12, 69:18, 69:24, 70:1, 70:3, 70:6, 70:7, 70:17, 70:21, 71:2, 71:5, 71:9, 71:14, 71:16, 72:4, 73:11, 75:1, 75:7, 75:10, 75:14, 76:7, 76:22, 77:17, 77:20, 77:22, 77:25, 78:8, 78:13, 78:16, 78:20, 78:25, 79:1, 80:22, 81:25, 82:17, 82:20, 82:25, 83:5, 84:1, 84:7, 84:11, 85:2, 85:8, 85:21, 85:25, 86:21, 87:1, 87:8, 87:12, 87:14,</p>	<p>87:17, 87:18, 87:21, 88:9, 88:13, 88:16, 88:22, 89:1, 89:5, 89:10, 89:13, 89:25, 90:8, 90:12, 90:20, 90:24, 91:2, 91:7, 91:10, 91:25, 92:5, 92:10, 92:12, 92:13, 92:15, 92:16, 92:19, 92:20, 92:21, 92:24, 93:4, 93:6, 93:22, 93:23, 94:2, 94:8, 94:11, 94:13, 95:7, 95:9, 95:17, 95:21, 95:24, 96:4, 97:19, 98:4, 98:7, 99:9, 99:12, 99:22, 100:1, 100:2, 100:3, 100:7, 100:9, 100:10, 100:12, 100:13, 104:18, 104:21, 105:6, 105:8, 105:12, 105:13, 105:16, 105:18, 106:4, 106:7, 106:24, 107:1, 107:2, 107:4, 107:19, 108:7, 108:11, 109:4, 109:8, 109:24, 110:7, 110:11, 110:16, 110:20, 110:22, 110:24, 111:3, 111:7, 111:13, 111:15, 111:17, 111:20, 112:7, 112:14, 112:18, 112:21, 113:7, 113:8, 113:14, 113:17, 114:1, 114:7, 114:11, 114:14, 114:17, 114:19, 114:21, 114:22, 115:5, 115:12, 115:19, 115:21, 116:2, 116:11, 116:22, 116:24, 117:2, 123:7, 123:12, 123:17, 124:6, 124:12, 124:14, 124:17, 124:21, 125:5, 126:13, 127:13, 127:22, 129:16, 130:1, 135:24, 136:3, 136:8, 136:10, 138:19, 138:21, 138:25, 139:5, 139:10, 139:14, 139:22,</p>	<p>140:2, 140:20, 141:1, 142:5, 142:15, 142:22, 143:16, 145:13, 146:2, 147:9, 147:14, 148:5, 148:6, 148:9, 148:25, 149:6, 150:12, 150:23, 151:16, 151:22, 152:7, 152:10, 154:9, 154:18, 155:7, 155:22, 156:1, 157:11, 157:20, 158:2, 158:11, 158:14, 158:18, 159:8, 159:14, 159:25, 162:11, 162:17, 163:2, 163:8, 163:14, 163:22, 164:8, 164:16, 164:21, 164:25, 165:2, 165:14, 165:24, 166:2, 166:12, 166:16, 167:11, 167:13, 168:1, 168:4, 168:5, 168:10, 168:11, 168:16, 168:25, 169:8, 169:11, 169:18, 169:23, 170:1, 170:2, 170:5, 170:8, 170:10, 170:14, 170:15, 170:17, 170:19, 170:22, 171:2, 171:17, 171:19, 171:21, 171:24, 172:2</p> <p>MS [368] - 5:5, 5:13, 5:17, 6:9, 6:21, 7:2, 7:12, 7:15, 7:19, 8:7, 8:11, 8:18, 8:23, 9:20, 11:24, 25:25, 26:5, 49:8, 53:17, 53:20, 54:18, 55:6, 55:22, 56:1, 56:7, 57:13, 57:18, 57:23, 58:3, 58:15, 60:2, 65:4, 65:14, 66:1, 66:2, 66:3, 68:24, 70:15, 70:20, 70:24, 71:3, 71:7, 71:15, 71:22, 71:25, 72:2, 72:8, 72:15, 72:19, 72:22, 72:25, 73:8, 73:14, 73:25, 74:3, 74:8, 74:12, 74:20, 75:3, 77:19, 77:24, 78:2, 78:11, 78:15,</p>	<p>79:5, 79:9, 79:14, 79:15, 80:5, 80:7, 80:10, 80:13, 80:18, 88:11, 88:14, 88:17, 88:25, 89:3, 89:6, 89:12, 89:23, 90:7, 90:10, 90:15, 90:22, 90:25, 91:4, 91:8, 91:22, 92:3, 92:7, 95:14, 95:18, 95:23, 96:1, 96:18, 97:9, 97:12, 97:15, 97:21, 98:6, 98:9, 98:11, 99:5, 99:7, 99:10, 99:25, 100:17, 100:23, 101:1, 102:14, 102:22, 103:18, 104:15, 108:5, 108:13, 108:16, 108:21, 108:24, 108:25, 109:3, 109:6, 109:10, 109:13, 109:15, 110:2, 110:10, 110:13, 110:18, 110:21, 110:23, 111:1, 111:5, 111:9, 111:16, 113:24, 114:3, 114:9, 114:25, 115:7, 115:17, 115:23, 115:25, 117:8, 117:12, 117:14, 118:6, 118:20, 119:1, 119:3, 119:8, 119:12, 120:8, 120:13, 120:17, 120:20, 120:23, 121:6, 121:8, 121:19, 121:21, 121:23, 121:25, 122:2, 122:4, 122:7, 122:18, 122:22, 122:25, 123:6, 123:10, 123:15, 123:19, 123:21, 123:22, 124:1, 124:4, 124:8, 124:13, 124:18, 124:23, 125:3, 125:6, 125:10, 125:14, 125:16, 126:3, 126:18, 127:4, 127:11, 127:14, 127:16, 127:20, 127:24, 128:6, 129:1, 129:9, 129:14, 129:18, 129:23, 130:2, 130:3, 130:7,</p>	<p>130:21, 131:11, 131:13, 131:17, 131:20, 131:24, 133:24, 134:4, 134:6, 134:8, 134:9, 134:17, 135:6, 135:22, 135:23, 136:1, 136:6, 136:9, 136:14, 137:5, 137:7, 138:13, 138:18, 138:23, 139:2, 139:7, 139:16, 139:17, 148:11, 148:16, 148:18, 149:3, 149:7, 149:8, 149:9, 149:10, 149:11, 150:1, 150:3, 150:4, 150:7, 150:11, 150:14, 150:16, 150:18, 150:20, 150:21, 150:22, 150:25, 151:4, 151:6, 151:9, 151:12, 151:14, 151:18, 151:19, 151:25, 152:4, 152:9, 152:11, 152:14, 152:16, 152:19, 152:24, 153:3, 153:10, 153:17, 153:23, 154:7, 154:11, 154:13, 154:16, 154:19, 154:22, 154:24, 155:1, 155:3, 155:6, 155:8, 155:10, 155:11, 155:12, 155:17, 155:19, 155:24, 156:3, 156:5, 156:8, 157:1, 157:9, 157:13, 157:14, 157:15, 157:17, 157:18, 157:22, 157:23, 157:25, 158:1, 158:3, 158:5, 158:6, 158:7, 158:8, 158:13, 158:16, 158:21, 159:6, 159:10, 159:13, 159:16, 159:19, 159:23, 160:13, 161:4, 161:10, 161:25, 162:9, 162:13, 162:14, 162:22, 162:25, 163:4, 163:10, 163:16, 163:21, 163:23, 164:1, 164:2, 164:4,</p>
---	--	--	--	---

<p>164:12, 164:18, 164:19, 164:23, 165:7, 165:11, 165:12, 165:17, 165:19, 165:22, 165:23, 165:25, 166:6, 166:10, 166:14, 166:18, 167:1, 167:3, 167:15, 167:17, 167:22, 168:3, 168:8, 168:13, 168:24, 169:24, 170:4, 170:13, 170:18, 170:20, 170:24, 171:6, 171:22, 172:1, 172:4 multiple [2] - 6:24, 113:2 municipal [3] - 14:18, 40:19, 69:8 Municipal [15] - 6:1, 12:20, 30:17, 31:7, 33:23, 40:10, 48:9, 51:19, 66:22, 84:20, 137:24, 140:14, 143:7, 147:25, 160:4 municipalities [4] - 11:15, 24:21, 26:14, 142:3 municipality [5] - 70:12, 113:12, 113:19, 114:21, 114:22 museum [1] - 102:16 mutually [4] - 101:19, 102:5, 102:19, 107:13</p>	<p>near [3] - 96:14, 99:2, 101:6 necessarily [3] - 49:12, 162:1, 168:6 necessary [5] - 12:2, 41:13, 46:18, 77:16, 78:7 Need [17] - 15:9, 17:16, 17:19, 18:5, 25:22, 26:1, 72:16, 122:17, 122:19, 123:1, 123:4, 128:23, 155:18, 156:2, 156:7, 156:16, 156:20 need [23] - 8:14, 14:22, 20:20, 25:11, 28:14, 35:17, 44:23, 51:9, 51:17, 64:12, 68:14, 68:17, 95:6, 113:7, 115:11, 120:25, 122:5, 122:9, 122:20, 128:24, 130:10, 142:8, 151:23 needed [4] - 25:3, 64:8, 122:24, 169:2 needs [14] - 25:11, 27:7, 27:24, 28:2, 28:11, 28:16, 28:18, 44:17, 68:16, 78:13, 107:14, 111:16, 111:19 negative [13] - 27:1, 29:11, 29:18, 30:9, 31:20, 35:21, 35:23, 35:24, 50:7, 50:14, 53:17, 58:18, 83:11 negatives [5] - 36:21, 66:10, 66:13, 66:15, 66:16 neighbor [9] - 16:5, 17:11, 20:8, 21:8, 21:18, 45:24, 125:21, 127:6 neighborhood [1] - 16:15 neighboring [2] - 95:5, 129:20 neighbors [8] - 20:12, 50:8, 50:21, 53:12, 53:13, 54:17, 125:24, 126:7 never [7] - 6:18, 55:21, 105:2, 105:4, 106:3, 115:25, 160:11 New [17] - 1:21, 2:6, 2:10, 9:8, 10:4, 10:7, 10:22, 11:3, 11:6, 18:8, 142:4, 146:5,</p>	<p>173:4, 173:5, 173:7, 173:10, 173:15 new [7] - 6:19, 7:8, 7:10, 116:20, 129:10, 169:1, 169:14 newsletter [1] - 26:10 next [24] - 53:15, 54:10, 55:3, 70:8, 77:8, 77:16, 77:20, 77:22, 78:23, 100:15, 116:16, 138:17, 149:1, 151:17, 151:18, 158:15, 159:9, 162:21, 163:14, 164:11, 164:25, 166:4, 170:8, 171:9 NICK [1] - 1:11 Nick [1] - 62:7 NICKI [1] - 1:15 night [1] - 132:19 nighttime [1] - 95:12 Nishuane [1] - 10:3 NO [1] - 4:14 no-build [1] - 92:18 nobody [1] - 116:22 nobody's [1] - 125:11 noise [2] - 20:4, 20:6 non [2] - 92:18, 171:20 non-agenda [1] - 171:20 non-single-family [1] - 92:18 noncompliant [1] - 53:24 none [4] - 75:20, 76:2, 76:4, 127:18 nonresidential [3] - 117:18, 119:18, 120:3 north [1] - 101:9 Norwood [3] - 11:6, 121:3, 122:1 Notary [4] - 173:3, 173:4, 173:15, 173:15 note [2] - 116:12, 150:8 noted [4] - 91:5, 164:8, 165:3, 172:6 notes [4] - 12:12, 26:13, 93:7, 130:5 nothing [10] - 59:8, 99:7, 109:3, 114:23, 127:14, 154:16, 154:22, 155:22, 155:23, 158:10 notice [1] - 61:10</p>	<p>noting [2] - 43:9, 45:23 notwithstanding [2] - 82:15, 85:6 NOVEMBER [1] - 1:2 nowhere [1] - 96:14 number [29] - 24:21, 25:18, 26:7, 27:5, 32:20, 33:20, 36:14, 44:13, 49:22, 52:15, 60:11, 64:7, 72:11, 73:12, 75:19, 85:9, 94:17, 101:2, 104:8, 105:15, 119:24, 122:20, 135:2, 141:7, 156:11, 156:20, 169:3, 169:4 numbers [2] - 84:25, 131:25 Numeral [1] - 119:10 numerous [1] - 10:21 nursing [2] - 97:5, 135:10</p>	<p>occupancy [1] - 121:5 occur [2] - 62:19, 107:17 occurred [1] - 110:12 occurring [1] - 26:22 October [3] - 7:9, 13:10 OF [5] - 1:1, 1:3, 1:4, 1:9 off-track [1] - 30:21 offense [1] - 166:19 offensive [1] - 166:22 offer [5] - 23:9, 25:4, 88:7, 106:14, 160:3 offered [2] - 44:25, 91:18 offhand [1] - 129:6 office@ quickreporters. com [1] - 1:22 offs [1] - 55:20 often [1] - 41:23 OLD [2] - 1:1, 1:9 old [4] - 119:16, 129:21, 130:18, 141:2 Old [54] - 1:4, 1:5, 3:23, 5:2, 5:21, 12:18, 13:14, 14:16, 16:22, 17:3, 20:14, 20:25, 21:2, 21:4, 22:8, 26:22, 27:7, 27:22, 28:9, 28:14, 28:17, 28:24, 35:7, 35:13, 35:16, 36:8, 67:15, 68:13, 71:13, 88:5, 94:3, 98:16, 100:10, 100:18, 101:15, 111:11, 117:17, 120:13, 121:1, 124:11, 125:3, 128:2, 128:13, 129:4, 129:11, 129:19, 129:22, 130:16, 141:9, 141:25, 142:23, 159:2, 159:4, 167:9 older [4] - 28:12, 28:17, 35:8, 35:10 once [2] - 102:17, 165:5 one [83] - 14:20, 16:21, 17:18, 17:21, 20:5, 24:1, 25:4, 26:9, 27:22, 30:8, 31:25, 34:15, 37:24, 38:10, 38:23, 39:3, 40:16, 43:10, 43:19, 44:21, 45:1, 46:8,</p>
O				
<p>Oak [1] - 105:23 Oaks [2] - 101:9, 110:8 oath [1] - 173:6 object [3] - 127:11, 155:6, 166:10 objected [2] - 162:15, 162:17 objecting [1] - 157:23 objection [10] - 155:1, 158:3, 159:6, 159:8, 159:13, 162:19, 163:21, 164:8, 164:18 objectionable [1] - 127:17 objective [1] - 118:14 objectives [11] - 27:8, 31:5, 34:14, 85:13, 103:7, 104:9, 104:13, 118:11, 118:17, 119:24, 119:25 objects [1] - 164:2 obligation [3] - 15:9, 88:2, 88:8 Obstacles [1] - 26:11 obtain [1] - 101:5 obvious [1] - 78:9 obviously [5] - 59:7, 84:13, 151:10, 156:10, 171:2 occasions [3] - 13:2, 13:6, 16:22</p>				

<p>48:6, 49:11, 50:1, 50:23, 53:7, 53:14, 54:5, 54:19, 54:22, 55:1, 58:25, 60:12, 62:2, 67:9, 67:23, 70:2, 71:7, 72:10, 73:18, 76:13, 76:15, 79:9, 79:11, 81:20, 82:7, 83:21, 84:13, 85:14, 85:21, 87:7, 87:23, 100:22, 100:23, 101:8, 101:11, 101:20, 104:6, 113:3, 114:25, 116:6, 118:2, 119:4, 123:24, 124:1, 124:2, 124:4, 125:8, 126:1, 135:7, 136:24, 140:23, 141:14, 143:10, 143:25, 146:9, 146:13, 151:14, 163:1, 165:4, 167:1, 169:3</p> <p>one-acre [1] - 60:12</p> <p>one-family [2] - 14:20, 43:10</p> <p>open [11] - 38:6, 42:9, 50:20, 63:23, 71:19, 72:5, 76:6, 76:19, 106:11, 106:20, 171:19</p> <p>Open [1] - 105:9</p> <p>operate [1] - 20:9</p> <p>operation [2] - 18:7, 170:6</p> <p>operational [1] - 55:10</p> <p>operationally [3] - 44:23, 44:24, 55:19</p> <p>operations [1] - 55:16</p> <p>operators [1] - 99:14</p> <p>opined [1] - 152:15</p> <p>opining [1] - 156:7</p> <p>opinion [33] - 14:4, 16:13, 23:6, 27:9, 29:5, 30:15, 31:1, 35:22, 36:12, 36:23, 40:7, 41:3, 43:19, 44:3, 45:13, 48:16, 49:13, 52:13, 58:17, 60:8, 66:20, 68:14, 81:18, 87:22, 94:25, 96:10, 98:20, 102:5, 103:8, 118:15, 137:17, 167:8, 171:4</p> <p>opportunities [6] - 28:4, 98:18, 101:5, 117:17, 119:17, 120:2</p>	<p>opportunity [9] - 15:17, 78:14, 98:25, 108:3, 138:20, 139:12, 139:15, 150:8, 168:17</p> <p>opposed [9] - 18:4, 61:4, 62:19, 65:20, 90:3, 145:12, 145:14, 147:18, 148:14</p> <p>optimal [1] - 117:22</p> <p>option [2] - 25:20, 84:13</p> <p>Options [1] - 26:12</p> <p>options [2] - 128:15, 128:19</p> <p>order [2] - 20:14, 64:8</p> <p>ordinance [2] - 12:19, 21:23</p> <p>ordinances [1] - 10:19</p> <p>original [3] - 7:10, 73:17, 119:23</p> <p>Outburst [3] - 108:6, 152:18, 169:5</p> <p>outcome [1] - 173:9</p> <p>outline [1] - 123:7</p> <p>outlined [1] - 146:22</p> <p>outlining [1] - 122:20</p> <p>outside [3] - 65:20, 135:15, 154:7</p> <p>outweigh [3] - 36:22, 36:25, 37:5</p> <p>outweighs [1] - 66:15</p> <p>overall [5] - 39:8, 39:10, 51:23, 86:15, 118:10</p> <p>overcome [1] - 66:14</p> <p>overdevelopment [1] - 163:18</p> <p>own [6] - 27:17, 54:17, 80:24, 84:18, 128:20, 156:24</p> <p>owner [2] - 17:4, 107:25</p> <p>ownership [1] - 18:7</p>	<p>85:8, 101:2, 106:8, 118:24, 119:9, 119:14, 123:10, 163:1</p> <p>pages [1] - 119:13</p> <p>Palisades [2] - 101:14, 149:22</p> <p>paragraph [2] - 85:9, 123:11</p> <p>parameter [2] - 132:15, 132:16</p> <p>parameters [2] - 114:7, 122:21</p> <p>paramount [1] - 51:18</p> <p>Paramus [3] - 113:6, 113:10</p> <p>paraphrase [1] - 57:4</p> <p>pardon [2] - 75:9, 124:3</p> <p>parenthetically [1] - 30:14</p> <p>parents [2] - 97:2, 140:4</p> <p>Park [7] - 3:15, 34:4, 80:23, 80:25, 88:17, 147:15, 149:22</p> <p>park [5] - 83:18, 116:17, 145:8, 148:7, 148:10</p> <p>parked [1] - 116:13</p> <p>parking [15] - 18:23, 19:25, 22:10, 22:11, 38:17, 50:18, 74:21, 74:22, 75:14, 96:13, 132:8, 132:17, 133:18, 134:24, 138:6</p> <p>parks [2] - 105:24, 109:25</p> <p>parlance [1] - 98:23</p> <p>parse [2] - 117:23, 144:8</p> <p>part [27] - 17:17, 34:12, 50:14, 61:13, 63:23, 64:16, 65:18, 80:16, 87:24, 92:17, 98:15, 113:20, 114:16, 115:21, 115:25, 116:5, 116:8, 122:4, 130:22, 140:10, 148:13, 156:3, 156:14, 156:23, 159:21, 160:10, 165:25</p> <p>particular [24] - 11:13, 12:9, 13:8, 17:12, 19:8, 24:23, 27:2, 27:23, 29:14, 30:1, 54:20, 64:23, 81:4,</p>	<p>82:1, 88:4, 102:4, 113:23, 122:12, 131:5, 146:17, 160:20, 165:5, 167:5, 167:18</p> <p>particularly [6] - 6:23, 27:1, 29:25, 35:24, 39:1, 51:4</p> <p>parties [3] - 49:22, 53:22, 173:7</p> <p>parts [2] - 81:19, 171:5</p> <p>Party [1] - 2:11</p> <p>pass [3] - 55:13, 154:24, 158:16</p> <p>passed [1] - 108:18</p> <p>past [6] - 7:4, 86:11, 86:25, 90:2, 96:22, 169:16</p> <p>Pat [1] - 108:18</p> <p>Patches [2] - 3:17, 100:17</p> <p>patient [1] - 48:4</p> <p>patients [1] - 68:17</p> <p>Patrick [2] - 4:4, 139:22</p> <p>pattern [1] - 21:3</p> <p>patterns [2] - 82:4, 82:9</p> <p>pay [1] - 91:19</p> <p>paying [1] - 155:20</p> <p>PE [1] - 2:19</p> <p>Pearson [1] - 57:25</p> <p>people [23] - 49:21, 75:17, 79:13, 92:1, 97:1, 98:11, 98:12, 98:13, 98:19, 99:15, 107:21, 110:8, 115:14, 126:17, 128:9, 128:13, 132:10, 133:4, 138:25, 140:7, 154:4, 164:13, 166:9</p> <p>per [4] - 57:21, 57:25, 63:12, 93:10</p> <p>percent [14] - 15:6, 23:13, 23:14, 35:7, 35:9, 35:11, 43:4, 43:13, 89:24, 105:19, 131:8, 133:2, 147:24, 150:1</p> <p>percentage [2] - 105:10, 141:9</p> <p>perfect [3] - 24:17, 30:20, 62:9</p> <p>perhaps [8] - 20:5, 22:14, 28:3, 68:10, 81:19, 102:4, 141:12, 144:16</p> <p>permission [1] - 12:11</p>	<p>permit [1] - 63:8</p> <p>permitted [10] - 22:15, 23:3, 62:20, 80:1, 82:13, 87:12, 87:14, 143:20, 146:8, 146:25</p> <p>person [4] - 54:20, 58:13, 62:2, 106:3</p> <p>personal [6] - 91:23, 91:25, 92:4, 92:5, 125:20, 130:14</p> <p>personalized [1] - 25:9</p> <p>personally [2] - 105:22, 140:22</p> <p>persons [1] - 33:16</p> <p>perspective [5] - 13:17, 22:7, 38:2, 88:7, 160:4</p> <p>pertain [2] - 49:12, 49:14</p> <p>Pete [1] - 3:14</p> <p>Peter [2] - 80:22, 147:14</p> <p>phonetic [3] - 93:11, 109:17, 109:19</p> <p>phrased [1] - 49:3</p> <p>picked [1] - 105:23</p> <p>piece [20] - 62:12, 73:20, 74:18, 75:21, 81:4, 82:1, 83:6, 83:12, 86:3, 86:10, 86:19, 87:15, 87:19, 88:4, 90:1, 90:4, 101:21, 103:21, 104:5, 147:22</p> <p>pieces [1] - 81:8</p> <p>PILKINGTON [19] - 120:13, 120:17, 120:20, 120:23, 121:6, 121:8, 121:19, 121:21, 121:25, 122:4, 122:22, 123:6, 123:22, 124:1, 124:4, 124:8, 124:13, 124:18, 124:23</p> <p>Pilkington [4] - 3:22, 120:13, 120:17, 120:20</p> <p>Place [1] - 129:3</p> <p>place [12] - 35:17, 96:21, 97:3, 97:5, 97:24, 98:22, 113:5, 151:7, 154:2, 159:1, 159:3, 162:6</p> <p>placed [2] - 101:21, 151:21</p> <p>placement [1] -</p>
--	--	--	---	--

<p>138:11</p> <p>places [1] - 162:8</p> <p>Plainfield [1] - 38:25</p> <p>plan [33] - 6:3, 12:23, 20:17, 21:20, 29:4, 30:23, 31:2, 31:5, 34:15, 37:12, 40:25, 42:16, 48:1, 67:1, 72:12, 74:15, 85:11, 98:17, 106:11, 113:22, 113:23, 114:11, 115:6, 115:22, 116:1, 116:9, 132:22, 133:10, 136:25, 140:11, 167:7</p> <p>Plan [54] - 12:18, 26:25, 27:4, 30:25, 34:13, 35:3, 69:21, 69:22, 83:2, 83:5, 83:13, 83:17, 84:13, 84:24, 85:1, 85:5, 85:15, 90:17, 90:23, 90:24, 91:6, 91:11, 98:16, 98:21, 100:20, 101:22, 103:2, 103:3, 103:5, 103:6, 103:22, 104:8, 104:13, 104:23, 106:9, 107:15, 116:4, 116:6, 117:16, 118:4, 118:8, 118:11, 118:14, 118:16, 119:7, 119:24, 137:25, 138:1, 143:23, 143:24, 144:2, 144:10, 153:12</p> <p>planned [1] - 133:6</p> <p>Planner [1] - 2:20</p> <p>planner [51] - 5:23, 8:25, 10:7, 11:5, 11:18, 12:3, 13:23, 16:6, 16:14, 21:25, 27:9, 39:1, 47:19, 48:7, 58:17, 66:19, 76:10, 76:11, 76:12, 86:1, 86:15, 95:7, 97:11, 97:14, 97:21, 97:22, 101:17, 101:23, 103:5, 109:9, 112:5, 125:9, 126:16, 127:25, 130:3, 130:8, 132:7, 132:15, 132:21, 133:14, 134:1, 134:13, 136:1, 136:2, 136:11, 137:1, 137:21,</p>	<p>140:9, 143:10, 149:6, 167:25</p> <p>planner's [3] - 13:9, 25:7, 135:24</p> <p>planners [5] - 16:5, 41:23, 51:3, 154:2, 162:6</p> <p>Planners [1] - 10:9</p> <p>planning [33] - 7:23, 9:25, 10:15, 10:17, 12:24, 14:4, 24:15, 29:5, 38:2, 80:24, 81:11, 82:7, 83:2, 86:11, 88:14, 88:18, 88:22, 89:9, 89:20, 90:1, 96:8, 96:12, 98:23, 106:21, 113:6, 127:23, 134:16, 140:7, 147:3, 148:23, 149:10, 150:6, 160:3</p> <p>PLANNING [2] - 1:1, 1:9</p> <p>plans [7] - 7:8, 7:10, 10:18, 10:19, 22:3, 109:21, 119:11</p> <p>Plans [2] - 4:15, 8:8</p> <p>playing [1] - 144:16</p> <p>pleasing [1] - 42:4</p> <p>pleasure [1] - 15:20</p> <p>plot [1] - 89:1</p> <p>plus [7] - 44:1, 61:20, 62:1, 128:14, 129:21, 141:24, 142:7</p> <p>point [33] - 7:16, 28:4, 44:25, 59:20, 78:22, 85:6, 93:13, 93:18, 99:13, 100:6, 103:20, 104:21, 104:24, 106:4, 106:10, 107:20, 107:22, 113:18, 114:18, 114:25, 115:13, 115:20, 135:1, 137:9, 137:20, 137:22, 138:3, 138:11, 141:2, 144:13, 144:18, 159:2, 159:4</p> <p>points [3] - 53:4, 141:21, 142:13</p> <p>policy [2] - 28:6, 118:17</p> <p>pollution [1] - 132:20</p> <p>pools [3] - 60:14, 60:15, 60:24</p> <p>population [11] - 28:10, 28:22, 35:7, 35:12, 37:4, 85:17,</p>	<p>128:2, 130:9, 131:6, 131:7, 141:9</p> <p>portion [2] - 19:10, 20:2</p> <p>portions [1] - 21:4</p> <p>pose [3] - 58:17, 69:14, 150:10</p> <p>position [2] - 51:11, 108:4</p> <p>positive [4] - 29:10, 31:18, 31:19, 58:13</p> <p>positives [2] - 36:21, 36:22</p> <p>possibilities [1] - 154:3</p> <p>possibility [1] - 86:5</p> <p>possible [5] - 16:3, 16:7, 47:6, 104:3, 137:10</p> <p>possibly [2] - 6:25, 81:13</p> <p>potential [3] - 37:5, 58:18, 150:16</p> <p>potentially [2] - 50:15, 116:7</p> <p>PP [4] - 2:20, 3:3, 4:3, 9:7</p> <p>practically [1] - 56:16</p> <p>practice [1] - 10:17</p> <p>practicing [1] - 10:14</p> <p>precedence [1] - 112:24</p> <p>precedent [2] - 110:4, 112:23</p> <p>predicate [3] - 14:4, 18:11, 96:8</p> <p>predominantly [1] - 163:18</p> <p>predominately [2] - 166:7, 166:8</p> <p>preface [1] - 17:16</p> <p>preparation [1] - 26:9</p> <p>prepared [3] - 4:15, 8:8, 53:3</p> <p>preponderance [1] - 84:20</p> <p>Presbyterian [1] - 101:14</p> <p>PRESENT [1] - 1:9</p> <p>present [3] - 72:22, 144:3, 168:18</p> <p>presentation [7] - 52:20, 53:2, 57:1, 57:2, 66:6, 93:9, 142:25</p> <p>presented [6] - 6:3, 45:4, 73:8, 130:22, 136:15, 160:10</p> <p>presently [1] - 143:20</p> <p>Preservation [1] -</p>	<p>112:9</p> <p>preserve [3] - 43:15, 79:20, 80:8</p> <p>preserved [3] - 83:8, 83:18, 132:15</p> <p>preserving [4] - 18:24, 19:9, 83:19, 147:21</p> <p>presumptively [2] - 31:17, 31:21</p> <p>pretty [2] - 38:20, 77:2</p> <p>prevent [4] - 42:10, 135:17, 136:19, 136:23</p> <p>prevention [1] - 136:21</p> <p>previous [4] - 19:7, 44:14, 135:3, 154:13</p> <p>previously [2] - 114:1, 114:3</p> <p>Price [10] - 3:3, 3:4, 3:4, 5:19, 5:20, 37:15, 37:17, 68:11, 77:10, 77:14</p> <p>PRICE [190] - 2:4, 2:4, 5:17, 6:9, 6:21, 7:2, 7:12, 7:15, 7:19, 8:7, 8:11, 8:18, 8:23, 9:20, 11:24, 25:25, 26:5, 49:8, 53:17, 53:20, 54:18, 55:6, 55:22, 56:1, 56:7, 57:13, 57:18, 57:23, 58:3, 58:15, 60:2, 65:4, 65:14, 66:2, 68:24, 70:15, 70:20, 70:24, 71:3, 71:7, 71:15, 71:22, 71:25, 72:2, 72:8, 72:15, 72:19, 72:22, 72:25, 73:8, 73:14, 73:25, 74:3, 74:8, 74:12, 74:20, 75:3, 77:19, 77:24, 78:2, 78:11, 78:15, 80:10, 88:11, 88:14, 88:17, 88:25, 89:3, 89:6, 89:12, 89:23, 90:7, 90:10, 90:15, 90:22, 90:25, 91:4, 91:8, 91:22, 92:3, 92:7, 95:14, 95:18, 95:23, 96:1, 97:9, 98:6, 98:9, 99:7, 99:25, 108:5, 108:13, 108:21, 108:25, 113:24, 114:3, 114:9, 114:25, 115:23, 121:23, 122:2, 122:7, 122:18, 122:25, 123:10,</p>	<p>123:19, 125:14, 127:11, 127:14, 127:20, 129:23, 130:2, 130:7, 131:11, 134:8, 135:22, 136:6, 136:9, 138:18, 138:23, 139:2, 139:7, 139:16, 148:11, 149:8, 149:10, 150:1, 150:4, 150:11, 150:14, 150:18, 150:21, 151:4, 151:12, 151:18, 152:9, 152:14, 152:19, 154:7, 154:11, 154:16, 154:22, 155:1, 155:6, 155:8, 155:11, 155:17, 156:5, 157:9, 157:14, 157:17, 157:23, 158:1, 158:3, 158:6, 158:8, 158:13, 159:6, 159:13, 162:9, 162:14, 163:21, 164:1, 164:4, 164:18, 165:7, 165:11, 165:17, 165:22, 166:10, 166:14, 167:1, 167:3, 167:15, 167:17, 167:22, 168:3, 168:8, 168:13, 168:24, 169:24, 170:4, 170:13, 170:18, 170:20, 170:24, 171:6, 171:22, 172:1, 172:4</p> <p>price [5] - 37:23, 77:9, 78:22, 153:25</p> <p>pricing [1] - 99:17</p> <p>primary [1] - 10:15</p> <p>principal [1] - 10:3</p> <p>priorities [1] - 107:10</p> <p>prioritization [1] - 143:4</p> <p>prioritize [4] - 51:6, 101:24, 104:6, 106:18</p> <p>priority [1] - 51:15</p> <p>prison [1] - 144:18</p> <p>private [9] - 25:5, 25:12, 69:5, 69:20, 70:13, 93:13, 107:25, 108:1, 148:14</p>
--	---	--	--	---

<p>privy [1] - 64:10</p> <p>problem [4] - 55:21, 115:7, 165:6, 170:4</p> <p>proceed [1] - 7:7</p> <p>proceeded [1] - 13:12</p> <p>PROCEEDING [1] - 1:4</p> <p>proceeding [1] - 9:4</p> <p>process [2] - 106:16, 107:24</p> <p>product [4] - 16:15, 18:1, 18:3, 98:20</p> <p>products [1] - 156:18</p> <p>Professional [1] - 173:5</p> <p>professional [17] - 5:23, 9:24, 9:25, 10:7, 11:18, 14:4, 16:13, 27:9, 29:4, 36:12, 40:7, 47:19, 48:7, 87:22, 137:21, 143:9, 148:21</p> <p>professionals [2] - 48:8, 138:21</p> <p>project [20] - 8:3, 13:1, 14:24, 14:25, 15:12, 17:21, 38:12, 41:20, 46:20, 52:1, 57:25, 62:4, 113:25, 117:22, 122:3, 123:2, 132:25, 143:8, 144:5, 159:5</p> <p>promise [1] - 149:25</p> <p>promote [3] - 40:22, 41:6, 42:7</p> <p>promoted [1] - 34:1</p> <p>promotes [1] - 31:13</p> <p>prong [8] - 27:1, 30:10, 30:11, 30:22, 68:2, 68:3, 68:8, 161:1</p> <p>prongs [1] - 130:8</p> <p>pronounced [1] - 38:10</p> <p>proof [3] - 31:23, 144:23, 145:1</p> <p>proofs [13] - 5:25, 13:24, 23:9, 24:9, 24:16, 26:25, 38:5, 38:20, 48:9, 48:20, 99:8, 140:19, 144:20</p> <p>properly [3] - 20:9, 90:3, 90:4</p> <p>properties [14] - 50:4, 67:13, 81:24, 101:5, 105:19, 106:1, 106:12, 106:20, 106:23, 106:25, 145:18, 145:19, 152:22, 171:5</p>	<p>property [95] - 14:16, 17:4, 19:11, 20:7, 20:12, 33:15, 45:6, 45:19, 45:23, 46:1, 52:12, 52:13, 53:25, 54:4, 59:7, 59:25, 62:3, 62:12, 67:12, 72:14, 73:20, 73:23, 74:2, 74:17, 74:18, 75:20, 75:21, 79:18, 79:21, 81:4, 81:8, 81:21, 82:11, 82:21, 83:6, 83:12, 83:16, 84:1, 86:3, 86:7, 86:11, 86:19, 87:9, 87:13, 87:15, 87:19, 87:20, 90:1, 90:3, 90:4, 90:16, 90:18, 91:5, 91:9, 100:24, 101:9, 101:11, 101:13, 101:16, 101:25, 102:13, 102:16, 102:18, 102:23, 103:21, 104:24, 107:6, 107:11, 110:18, 115:1, 115:8, 115:9, 125:21, 126:8, 127:6, 143:21, 144:4, 145:21, 147:22, 151:7, 152:2, 152:6, 152:22, 153:4, 153:6, 153:18, 154:6, 155:15, 159:11, 165:6, 167:5, 167:6</p> <p>proposal [3] - 39:23, 114:13, 146:25</p> <p>propose [2] - 20:10, 24:8</p> <p>proposed [27] - 15:8, 19:1, 19:20, 20:10, 22:8, 22:18, 23:1, 24:3, 24:5, 43:17, 44:10, 44:22, 45:6, 45:18, 46:12, 47:5, 52:1, 52:15, 58:10, 59:13, 60:7, 64:24, 68:21, 69:15, 79:18, 82:13, 118:3</p> <p>proposing [12] - 24:1, 24:12, 33:11, 38:18, 39:5, 43:8, 47:20, 59:1, 79:25, 143:19, 144:17</p> <p>proposition [1] - 33:8</p> <p>protecting [1] - 116:5</p> <p>proud [2] - 11:1, 46:23</p> <p>prove [1] - 160:8</p>	<p>proves [1] - 38:13</p> <p>provide [10] - 9:21, 13:23, 20:14, 25:1, 27:17, 27:20, 28:15, 46:21, 67:11, 137:23</p> <p>provided [13] - 21:22, 22:10, 25:8, 84:24, 94:19, 121:12, 128:4, 128:17, 128:20, 129:24, 138:10, 141:22, 173:6</p> <p>provider [2] - 68:22, 69:20</p> <p>provides [3] - 31:7, 32:1, 70:12</p> <p>providing [8] - 19:1, 20:18, 25:20, 37:3, 38:19, 104:10, 113:8, 156:17</p> <p>proving [1] - 143:13</p> <p>provision [2] - 44:15, 98:20</p> <p>provisions [1] - 95:3</p> <p>public [38] - 7:24, 7:25, 9:23, 12:8, 28:15, 30:13, 31:12, 32:9, 34:6, 34:12, 37:11, 40:22, 41:5, 47:24, 49:15, 59:18, 60:17, 71:19, 72:5, 75:17, 76:6, 76:20, 79:3, 84:2, 87:5, 105:20, 112:4, 130:22, 138:20, 139:2, 139:7, 145:6, 148:13, 163:3, 168:18, 169:7, 169:9</p> <p>Public [4] - 3:11, 4:4, 173:4, 173:15</p> <p>public's [2] - 6:13, 139:14</p> <p>pulled [1] - 86:13</p> <p>Pullen [2] - 38:24, 39:25</p> <p>purchase [3] - 105:2, 105:5, 107:5</p> <p>purpose [7] - 41:2, 41:4, 41:11, 42:23, 60:7, 118:10, 160:17</p> <p>purposes [12] - 29:24, 40:4, 40:6, 40:9, 40:12, 60:6, 84:16, 103:10, 146:16, 160:20, 160:23, 161:2</p> <p>pursuant [2] - 6:1, 48:9</p> <p>pursue [4] - 101:4, 117:17, 119:16,</p>	<p>120:2</p> <p>pursued [1] - 101:11</p> <p>purview [1] - 135:5</p> <p>put [15] - 45:4, 51:7, 78:21, 87:10, 91:22, 97:16, 106:20, 108:11, 115:3, 115:6, 115:9, 145:8, 153:25, 156:11, 170:22</p> <p>putting [2] - 132:8, 132:9</p>	<p>159:20, 165:4, 165:8</p> <p>quotes [2] - 97:16, 97:18</p> <p>quoting [2] - 97:15, 159:16</p>
R				
<p>R.P.R [2] - 173:3, 173:14</p> <p>RA-40 [1] - 14:19</p> <p>radius [4] - 128:13, 128:18, 128:19, 129:4</p> <p>rain [1] - 132:11</p> <p>rainwater [1] - 132:18</p> <p>raise [2] - 9:2, 76:17</p> <p>raised [2] - 68:12, 107:20</p> <p>rapidly [1] - 26:17</p> <p>rate [3] - 18:18, 28:5, 141:25</p> <p>rather [6] - 38:2, 41:3, 65:7, 77:18, 95:12, 158:18</p> <p>re [1] - 21:13</p> <p>Re [1] - 106:8</p> <p>Re-Exam [1] - 106:8</p> <p>re-grade [1] - 21:13</p> <p>reach [1] - 16:11</p> <p>reached [1] - 91:14</p> <p>read [14] - 14:17, 28:23, 31:9, 56:19, 71:19, 78:23, 83:1, 85:1, 93:25, 103:4, 103:7, 103:8, 148:20, 149:4</p> <p>readable [1] - 46:24</p> <p>reading [2] - 83:13, 83:14</p> <p>ready [1] - 7:7</p> <p>real [3] - 22:11, 153:8, 153:21</p> <p>realistic [1] - 36:14</p> <p>reality [1] - 94:23</p> <p>realizes [1] - 63:21</p> <p>really [18] - 43:23, 45:21, 47:15, 50:25, 51:22, 53:11, 66:25, 71:10, 113:16, 120:5, 135:16, 137:21, 140:2, 144:25, 153:24, 164:5, 164:6, 166:12</p> <p>rear [6] - 20:15, 24:2, 45:5, 53:13, 54:16</p> <p>reason [8] - 27:14, 38:6, 41:3, 63:23, 82:4, 105:20, 107:19, 107:21</p>				

<p>reasonable [1] - 68:9 reasoning [1] - 123:8 reasons [14] - 15:25, 29:21, 30:8, 38:13, 38:14, 48:17, 78:9, 81:7, 104:13, 160:15, 160:19, 161:10 rebuttal [1] - 168:15 recap [7] - 14:10, 15:14, 18:13, 36:19, 64:5, 137:10, 137:18 recapped [1] - 137:10 recapping [1] - 65:16 receive [1] - 157:7 received [2] - 22:3, 146:20 receiving [1] - 56:14 recent [3] - 26:17, 88:1, 101:8 recess [1] - 111:24 recitation [1] - 24:13 recite [1] - 22:21 recognition [1] - 85:16 recognized [2] - 25:21, 34:1 recognizes [2] - 27:23, 143:1 recollection [1] - 130:14 recommend [1] - 143:9 recommendations [1] - 119:10 recommended [1] - 98:21 recommends [1] - 34:15 reconvene [2] - 112:1, 112:3 record [29] - 9:11, 13:24, 14:6, 14:9, 14:15, 14:17, 22:23, 25:25, 26:4, 71:20, 77:14, 78:21, 84:4, 95:19, 99:8, 108:12, 108:23, 109:11, 113:24, 123:3, 154:12, 154:17, 154:23, 164:6, 167:23, 170:23, 171:25, 172:3, 173:6 records [1] - 14:18 recreation [2] - 101:3, 101:6 recreational [6] - 25:13, 102:16, 102:18, 102:23, 103:13, 103:25</p>	<p>recuse [1] - 5:15 RECUSED [2] - 1:11, 1:12 redesigned [1] - 20:13 redevelopment [2] - 10:19, 119:11 REDIRECT [1] - 167:2 Redirect [1] - 3:4 reduce [3] - 32:18, 132:22, 134:19 Reduci [2] - 109:16, 109:21 reducing [1] - 77:4 reduction [1] - 132:5 redundant [1] - 14:6 reemphasize [1] - 20:1 reemphasizing [1] - 62:14 reexamination [1] - 12:19 Reexamine [1] - 27:4 refer [5] - 12:12, 35:19, 82:5, 122:15, 165:7 referee [1] - 173:6 reference [7] - 85:7, 90:15, 91:9, 95:19, 103:20, 141:3, 156:15 referenced [5] - 25:22, 47:11, 69:16, 117:15, 156:20 references [5] - 17:19, 27:3, 30:25, 68:13, 100:23 referendum [7] - 105:12, 108:18, 109:15, 109:21, 109:22, 110:12, 110:17 referred [10] - 11:12, 14:16, 26:2, 90:22, 91:4, 95:21, 97:3, 130:16, 130:17, 156:5 referring [4] - 102:15, 106:9, 130:15, 131:12 refers [1] - 18:5 refrain [1] - 86:25 refused [1] - 90:21 Regan [2] - 68:5, 78:23 REGAN [128] - 2:2, 5:3, 5:7, 5:10, 6:7, 6:17, 6:22, 7:11, 7:13, 7:17, 8:16, 8:19, 9:1, 9:11, 9:17, 11:16, 54:9, 57:11,</p>	<p>67:23, 67:25, 68:6, 69:2, 69:9, 69:12, 69:24, 70:3, 70:7, 70:17, 70:21, 71:2, 71:5, 71:9, 71:14, 71:16, 72:4, 73:11, 75:1, 77:17, 77:22, 77:25, 78:25, 86:21, 87:12, 87:18, 92:12, 92:15, 92:19, 92:21, 93:22, 95:7, 95:17, 95:21, 98:4, 98:7, 99:9, 99:22, 100:1, 100:3, 100:7, 100:10, 100:13, 105:12, 107:2, 109:4, 109:8, 111:15, 113:7, 113:14, 114:1, 114:7, 114:21, 115:21, 126:13, 127:13, 127:22, 129:16, 130:1, 135:24, 136:3, 136:8, 139:14, 148:9, 148:25, 149:6, 150:12, 150:23, 151:16, 151:22, 152:7, 152:10, 154:9, 154:18, 155:7, 155:22, 156:1, 157:11, 157:20, 158:2, 158:11, 159:8, 159:14, 159:25, 162:11, 162:17, 163:2, 163:8, 163:14, 163:22, 164:8, 164:16, 164:21, 164:25, 165:14, 166:2, 166:12, 166:16, 167:11, 167:13, 168:1, 168:4, 168:11, 168:16, 168:25, 169:8, 169:11, 169:23, 170:2, 170:14 regarding [2] - 126:7, 127:23 region [2] - 35:17, 51:18 regionally [1] - 35:9 Registered [1] - 173:5 regarding [1] - 16:23 regularly [1] - 98:23 regulation [1] - 173:10 regulations [3] - 24:22, 26:15, 100:13</p>	<p>reiterated [1] - 130:4 relate [1] - 51:5 related [3] - 158:11, 173:7, 173:8 relates [4] - 68:3, 68:8, 78:10, 95:11 relation [1] - 37:17 relatives [1] - 132:13 relevance [2] - 114:5, 164:9 relevant [8] - 41:20, 81:11, 82:15, 85:22, 87:22, 126:22, 127:5, 149:12 relied [1] - 96:6 relief [12] - 12:25, 29:6, 29:23, 31:4, 40:5, 40:8, 40:24, 45:14, 48:11, 73:9, 136:5, 158:12 reliefs [3] - 22:21, 24:14, 41:17 relocate [2] - 20:6, 102:9 relocated [1] - 19:11 relocation [3] - 37:8, 42:16, 103:12 remain [2] - 12:11, 116:8 remainder [1] - 33:4 remaining [1] - 37:13 remains [1] - 25:15 remember [5] - 69:21, 70:4, 93:20, 137:16, 146:15 removal [5] - 63:12, 86:9, 138:11, 150:8, 159:5 removed [1] - 75:2 rendering [2] - 168:23, 169:17 renderings [1] - 126:10 repeat [3] - 16:21, 34:14, 97:19 repeated [2] - 14:8, 36:18 repeating [3] - 15:5, 17:9, 17:20 replace [1] - 152:24 replacement [1] - 21:20 Report [3] - 4:18, 8:21, 27:4 report [6] - 8:12, 12:19, 13:9, 22:21, 95:25, 141:23 reporter [5] - 108:14, 111:15, 111:17, 111:18, 111:21</p>	<p>Reporter [2] - 173:4, 173:5 REPORTER [16] - 68:4, 94:6, 94:9, 94:12, 108:20, 108:22, 112:12, 112:16, 112:20, 117:10, 117:13, 120:15, 120:19, 120:22, 169:6, 169:10 REPORTING [1] - 1:20 reprehensible [2] - 166:11, 166:14 represent [2] - 91:17, 125:23 representative [6] - 15:18, 15:22, 71:16, 72:5, 141:16, 164:7 reputation [1] - 125:12 request [2] - 83:17, 145:17 requested [2] - 29:6, 89:16 requesting [1] - 24:19 require [4] - 86:8, 92:17, 116:8, 131:22 required [21] - 6:1, 6:2, 23:1, 23:25, 24:2, 24:4, 24:7, 24:12, 29:11, 37:24, 38:12, 44:21, 45:5, 45:14, 45:17, 46:12, 47:5, 48:10, 54:22, 140:19, 154:18 requirement [3] - 21:24, 30:3, 68:7 requirements [4] - 21:25, 86:4, 144:20, 161:7 requires [3] - 29:17, 144:15, 144:25 requiring [1] - 86:7 requisite [1] - 13:24 research [6] - 121:11, 122:5, 127:9, 129:19, 130:14, 131:2 researched [1] - 93:7 resembling [1] - 165:8 reservoir [1] - 109:18 resident [4] - 21:15, 35:12, 94:3, 129:11 residential [14] - 14:20, 20:11, 20:16, 25:15, 27:12, 33:9, 34:16, 59:14, 80:3, 80:9, 117:19, 119:18, 120:4, 120:6</p>
--	--	---	---	--

residents [18] - 20:23, 20:24, 21:12, 21:15, 28:12, 28:17, 35:10, 35:16, 94:24, 95:1, 95:3, 95:13, 98:25, 99:17, 100:11, 129:5, 129:19, 129:20 resignations [1] - 6:20 resolution [2] - 68:23, 69:17 resource [1] - 116:4 resources [4] - 19:6, 42:9, 42:10, 107:7 respect [4] - 94:13, 115:13, 116:3, 165:5 respond [3] - 25:10, 67:2, 87:23 responded [1] - 53:21 response [5] - 76:1, 76:3, 92:2, 143:2, 166:25 responsibility [1] - 89:21 responsive [5] - 19:14, 46:9, 48:20, 165:4, 165:13 rest [1] - 61:24 restricted [2] - 27:13, 41:17 restrictions [4] - 38:17, 57:17, 63:8, 63:12 result [3] - 18:17, 18:21, 94:19 resulted [2] - 16:18, 21:10 results [2] - 16:17, 19:17 retention [1] - 134:4 retirement [1] - 26:19 reverse [1] - 36:23 review [13] - 12:17, 13:6, 13:8, 17:2, 29:3, 32:2, 48:22, 69:14, 84:18, 99:23, 118:8, 140:11 reviewed [6] - 12:24, 36:13, 52:11, 80:11, 118:16, 165:14 reviewing [1] - 12:3 revised [4] - 7:11, 8:13, 13:10, 115:3 Revised [4] - 4:16, 4:18, 8:9, 8:21 revisions [1] - 136:25 ridge [2] - 23:19, 44:9 Ridge [1] - 2:9 ridiculously [2] - 97:1, 105:15	rights [3] - 6:13, 54:12, 78:9 risk [1] - 169:1 road [3] - 59:22, 75:18, 95:9 Road [21] - 1:5, 1:21, 2:9, 3:18, 3:23, 5:2, 5:21, 14:16, 16:23, 17:3, 20:14, 20:25, 21:2, 21:4, 22:9, 36:8, 67:15, 100:18, 101:15, 113:6, 125:4 ROBERT [2] - 1:15, 2:2 role [8] - 12:3, 13:20, 13:23, 88:18, 88:22, 89:9, 89:10, 89:14 Roman [2] - 119:10, 149:15 roof [1] - 42:5 rook [1] - 59:22 room [2] - 25:5, 138:14 rooms [2] - 19:19, 86:6 Rosalie [2] - 3:20, 112:18 Roselle [1] - 34:4 roughly [2] - 128:9, 140:16 round [1] - 99:18 rule [1] - 88:20 run [2] - 163:8, 167:13 running [1] - 62:1 runoff [1] - 16:24 runs [1] - 167:20 Russell [1] - 101:16 Rutgers [2] - 10:11	saving [1] - 134:18 saw [4] - 6:5, 37:18, 53:23, 54:1 scenario [7] - 63:22, 80:2, 144:16, 145:20, 145:22, 146:10, 146:11 scenarios [1] - 135:3 schedule [2] - 8:4, 55:20 schedule-wise [1] - 8:4 schema [1] - 39:4 scheme [1] - 30:21 school [4] - 22:16, 31:15, 94:20, 135:11 School [2] - 10:11, 10:12 schools [1] - 57:6 scope [1] - 154:7 Scotland [1] - 149:18 SCOZZAFAVA [1] - 1:15 screening [1] - 67:11 se [1] - 63:12 seated [1] - 12:11 seats [1] - 112:2 second [11] - 14:9, 27:1, 29:15, 32:13, 76:8, 76:17, 93:15, 119:4, 144:7, 152:19, 152:20 Secretary [1] - 2:21 section [1] - 90:23 sections [1] - 27:5 sector [1] - 28:15 security [1] - 70:13 see [20] - 15:21, 23:16, 49:22, 68:21, 70:2, 70:7, 71:9, 71:10, 71:12, 79:6, 79:9, 83:11, 85:7, 109:20, 134:17, 140:12, 146:21, 152:16, 166:17, 171:4 see.. [1] - 7:19 seeing [3] - 76:4, 133:1, 142:3 seek [3] - 26:18, 28:17, 146:9 seeking [1] - 13:1 seeks [3] - 117:17, 119:16, 120:2 seem [1] - 120:4 segment [2] - 131:5, 131:7 segue [2] - 29:6, 37:12 select [1] - 34:25 selected [1] - 50:2 selection [1] - 65:18	selections [1] - 21:21 sell [1] - 110:8 selling [1] - 107:25 send [3] - 69:7, 71:7 Senior [2] - 1:5, 26:11 senior [17] - 19:21, 20:3, 26:18, 27:11, 28:6, 28:12, 33:25, 34:5, 34:15, 35:12, 42:20, 42:22, 51:5, 99:3, 147:20, 161:22 Seniors [4] - 15:24, 16:9, 34:24, 42:1 seniors [7] - 27:7, 44:17, 96:21, 96:23, 97:23, 98:1, 99:5 sense [1] - 44:4 sensitive [11] - 19:5, 19:6, 41:14, 41:15, 42:15, 45:22, 46:21, 47:6, 47:10, 62:16, 133:13 sensitivities [1] - 63:17 sentences [1] - 130:9 separate [2] - 8:15, 25:14 September [1] - 8:13 series [1] - 12:2 served [2] - 11:2, 11:5 serves [4] - 31:12, 34:5, 44:17, 51:17 service [7] - 28:11, 68:15, 69:6, 70:13, 93:14, 94:19, 95:5 services [3] - 25:3, 25:9, 65:9 serving [1] - 140:9 set [7] - 5:18, 7:8, 7:12, 27:3, 38:6, 67:20, 144:12 setback [3] - 45:14, 67:9, 67:10 seven [6] - 56:8, 105:18, 105:21, 119:15, 169:2, 169:13 seven-tenths [1] - 105:18 several [8] - 13:2, 18:15, 23:4, 33:1, 40:6, 53:22, 118:12, 137:16 shall [1] - 9:4 shape [1] - 39:16 shaped [1] - 65:10 share [1] - 169:19 shared [1] - 85:12 sharing [2] - 17:24, 169:21	shattering [1] - 53:11 Sheridan [3] - 2:11, 76:25, 78:10 shift [2] - 46:10, 95:2 shifts [1] - 51:22 short [1] - 123:11 shortly [1] - 5:6 show [3] - 31:23, 55:14, 126:9 showed [1] - 141:23 showing [4] - 20:8, 29:21, 38:5, 74:10 shows [1] - 55:1 Shulman [1] - 5:20 SHULMAN [1] - 2:4 sic [1] - 125:12 Sica [6] - 32:4, 33:10, 34:12, 68:1, 161:1 side [16] - 24:2, 24:4, 38:16, 45:17, 45:25, 46:2, 46:3, 46:5, 46:10, 53:24, 62:7, 63:20, 67:9, 74:17, 101:13 sidewalk [2] - 135:20, 136:21 sift [1] - 146:18 sight [2] - 47:12, 126:10 sign [7] - 24:6, 24:7, 24:11, 46:12, 46:13, 47:4, 116:17 signage [1] - 46:21 significance [2] - 82:3, 103:14 significant [10] - 6:23, 21:22, 34:25, 51:24, 61:3, 102:9, 118:17, 138:10, 141:25, 142:11 Silver [3] - 35:19, 85:18, 127:25 similar [5] - 33:21, 34:23, 38:17, 66:19, 166:20 similarly [2] - 21:9, 47:3 simple [2] - 14:9, 147:16 simply [1] - 87:24 Simultaneous [2] - 100:4, 110:15 single [7] - 43:24, 44:5, 63:6, 63:18, 92:18, 131:21, 145:16 single-family [6] - 43:24, 44:5, 63:6, 63:18, 131:21, 145:16
---	--	--	---	--

singular [1] - 147:7 sip [1] - 29:9 sit [1] - 88:14 site [95] - 6:3, 12:22, 12:23, 13:2, 14:25, 16:19, 18:12, 18:18, 18:21, 18:22, 18:24, 19:5, 19:8, 19:10, 19:20, 19:24, 19:25, 20:9, 20:13, 20:21, 22:10, 22:11, 22:16, 22:18, 22:22, 29:4, 30:1, 32:24, 36:4, 36:5, 36:8, 36:19, 36:25, 37:4, 37:7, 39:17, 41:12, 41:13, 44:17, 46:22, 47:1, 47:2, 50:1, 50:6, 50:18, 50:19, 52:11, 52:14, 52:15, 60:20, 60:24, 61:1, 62:14, 63:16, 64:24, 65:16, 65:17, 66:17, 67:1, 74:25, 75:3, 79:21, 80:1, 82:23, 102:7, 102:11, 103:14, 103:16, 105:23, 133:11, 133:12, 133:15, 133:17, 133:18, 133:22, 134:5, 134:6, 134:22, 135:4, 137:11, 138:4, 140:11, 141:18, 150:9, 155:5, 159:24, 160:8, 160:14, 160:16, 163:19, 167:7, 167:8, 167:9 sites [6] - 42:8, 88:3, 105:22, 149:15, 160:12, 167:20 situation [7] - 55:7, 63:17, 94:15, 94:25, 102:6, 126:4, 154:2 six [3] - 57:25, 109:17, 114:15 size [3] - 39:16, 52:12, 93:19 Skrable [2] - 3:5, 77:2 SKRABLE [16] - 2:19, 7:20, 49:11, 50:9, 50:11, 56:12, 69:18, 70:1, 70:6, 92:10, 92:13, 92:16, 92:20, 92:24, 169:18, 170:5 slightly [1] - 23:13 slower [1] - 18:18 small [1] - 105:10 smaller [1] - 46:14	snow [1] - 132:11 so.. [2] - 120:7, 121:24 Society [1] - 112:9 solar [1] - 31:16 someone [2] - 52:20, 160:6 somewhere [1] - 132:18 Song [2] - 3:21, 117:8 SONG [10] - 117:8, 117:12, 117:14, 118:6, 118:20, 119:1, 119:3, 119:8, 119:12, 120:8 sooner [1] - 77:18 sorry [20] - 61:7, 68:4, 79:7, 91:2, 94:6, 100:2, 108:20, 112:12, 120:15, 125:16, 148:23, 150:22, 152:3, 152:24, 153:1, 159:3, 162:5, 166:7, 169:6, 169:8 sort [5] - 64:12, 125:11, 159:2, 161:6, 161:13 sought [1] - 38:11 sounds [2] - 117:25, 136:12 source [1] - 20:5 sourced [1] - 130:25 sources [1] - 91:20 South [1] - 38:24 space [13] - 42:9, 45:3, 45:9, 54:22, 67:10, 103:13, 103:25, 106:11, 106:20, 110:3, 110:21, 117:22, 134:24 Space [1] - 105:9 spaces [4] - 22:10, 23:25, 44:21, 44:24 span [1] - 18:14 spanning [1] - 6:15 spare [1] - 18:2 sparing [1] - 16:3 Speaking [2] - 100:4, 110:15 speaking [3] - 29:16, 134:22, 169:7 speaks [2] - 27:12, 156:16 special [10] - 21:21, 25:8, 27:24, 28:2, 29:21, 30:8, 38:13, 38:14, 160:19 specialities [1] - 10:17 specialty [2] - 54:19,	161:2 species [3] - 164:14, 164:17, 164:22 specific [22] - 24:22, 26:15, 27:8, 27:14, 34:18, 85:6, 89:16, 98:19, 102:24, 104:4, 118:2, 143:20, 144:1, 150:9, 152:2, 152:5, 153:4, 153:20, 160:16, 162:1 specifically [19] - 9:23, 11:4, 13:13, 18:8, 28:1, 28:18, 83:6, 83:14, 89:14, 91:5, 101:22, 101:24, 117:16, 121:2, 156:6, 160:14, 160:16, 165:16 specifics [1] - 83:14 specimen [1] - 21:21 specimens [1] - 21:20 speculative [2] - 88:19, 89:8 spell [3] - 9:12, 94:6, 117:10 Spilka [2] - 3:15, 94:3 SPILKA [6] - 94:2, 94:8, 94:11, 94:13, 95:9, 96:4 spill [1] - 20:11 spirit [3] - 45:8, 45:13, 143:23 spoken [3] - 79:12, 142:20, 153:11 spot [1] - 28:19 sprawl [1] - 42:11 squad [1] - 69:8 square [12] - 23:17, 24:7, 43:17, 43:18, 43:23, 46:12, 46:13, 46:16, 105:17, 131:21, 131:22, 132:22 Squire [2] - 3:22, 120:21 stab [2] - 55:16, 105:6 staff [3] - 13:2, 13:5, 82:23 stage [1] - 27:3 stake [1] - 32:10 stakeholders [2] - 16:12, 19:15 stand [3] - 8:2, 103:8, 159:22 standard [10] - 23:22, 43:7, 43:12, 43:18, 44:12, 47:7, 64:21,	68:7, 145:1, 160:5 standards [7] - 24:22, 36:6, 38:3, 38:6, 39:9, 43:21, 82:14 standing [2] - 11:9, 146:13 stands [1] - 38:5 start [4] - 5:6, 7:24, 14:13, 79:10 started [2] - 14:14, 109:20 State [6] - 10:22, 124:22, 142:4, 173:4, 173:4, 173:7 state [22] - 9:11, 14:5, 15:10, 24:24, 25:23, 40:21, 42:10, 57:21, 85:20, 89:18, 99:1, 102:10, 108:22, 122:19, 122:25, 123:3, 128:22, 137:24, 140:13, 145:3, 149:22, 157:8 statement [6] - 14:9, 27:25, 28:6, 119:23, 149:24, 152:23 statements [4] - 76:12, 118:18, 150:5, 165:2 states [2] - 83:15, 117:17 stating [1] - 121:12 stations [1] - 22:13 stature [1] - 147:18 status [3] - 144:14, 144:19, 153:14 statute [4] - 140:13, 168:23, 171:1, 173:7 statutorily [1] - 140:19 statutory [2] - 13:24, 15:10 stay [4] - 99:2, 99:6, 128:14, 129:21 staying [4] - 97:3, 97:4, 145:15, 145:19 STEINHAGEN [19] - 2:8, 76:22, 77:20, 78:8, 78:13, 78:16, 78:20, 79:1, 168:5, 168:10, 170:1, 170:10, 170:17, 170:19, 170:22, 171:17, 171:21, 171:24, 172:2 Steinhagen [4] - 3:12, 76:23, 168:4, 168:9 step [9] - 5:15, 31:25, 34:11, 35:21, 36:10, 68:2, 131:16, 163:6, 163:12	Step [1] - 36:20 stepping [2] - 5:8, 164:13 steps [4] - 12:2, 12:8, 32:7, 32:8 still [12] - 41:13, 44:12, 50:20, 53:14, 53:18, 82:12, 103:2, 104:10, 145:19, 161:15, 161:21, 171:4 stipulation [1] - 71:1 stone [2] - 19:9, 112:25 stop [5] - 16:25, 75:15, 90:8, 90:9, 108:3 stopped [1] - 110:6 stories [19] - 23:21, 23:23, 23:24, 44:9, 44:10, 44:13, 64:7, 64:14, 64:18, 64:21, 65:6, 72:11, 72:21, 73:2, 73:12, 73:18, 86:6, 124:22 storm [1] - 132:12 Stormwater [2] - 4:17, 8:20 stormwater [2] - 8:12, 18:16 story [13] - 19:17, 44:15, 64:8, 64:11, 64:22, 65:5, 65:13, 65:19, 73:4, 73:7, 73:15, 101:8, 124:10 straightforward [1] - 38:2 Street [4] - 3:13, 3:20, 9:8, 10:5 street [4] - 16:23, 19:11, 115:4, 136:24 stricken [1] - 164:6 strict [5] - 39:9, 39:24, 44:13, 46:16, 47:21 strictly [1] - 47:6 stringent [2] - 33:10, 145:5 strongly [1] - 23:8 structure [9] - 31:16, 37:9, 42:16, 102:8, 102:10, 103:12, 103:15, 161:11, 162:4 structures [2] - 39:18, 124:11 student [1] - 148:24 students [1] - 140:7 studies [1] - 10:10 studying [1] - 80:14 style [1] - 25:2
---	--	--	--	---

<p>subdivide ^[1] - 145:18</p> <p>subdividing ^[1] - 115:1</p> <p>subdivision ^[2] - 63:18, 145:17</p> <p>subject ^[4] - 77:4, 168:5, 168:8, 170:11</p> <p>submission ^[1] - 142:12</p> <p>submit ^[12] - 22:2, 23:5, 29:22, 29:24, 40:1, 40:17, 44:23, 47:18, 50:5, 85:5, 146:5, 147:3</p> <p>submitted ^[3] - 7:10, 84:21, 103:10</p> <p>submitting ^[2] - 30:7, 109:21</p> <p>Subsection ^[3] - 40:15, 41:18, 42:19</p> <p>subsection ^[2] - 41:6, 42:7</p> <p>substantial ^[12] - 22:4, 30:13, 30:15, 30:22, 31:1, 35:23, 37:11, 47:24, 47:25, 66:21, 66:22, 74:24</p> <p>subsume ^[1] - 37:21</p> <p>subsumed ^[8] - 23:7, 37:25, 38:21, 43:6, 43:20, 44:4, 48:13, 82:10</p> <p>subterranean ^[2] - 133:18, 134:23</p> <p>success ^[1] - 101:8</p> <p>successful ^[1] - 101:12</p> <p>successfully ^[1] - 103:17</p> <p>sufficient ^[1] - 19:25</p> <p>suggest ^[4] - 60:22, 85:13, 116:8, 116:15</p> <p>suggested ^[3] - 71:18, 98:16, 98:17</p> <p>suggestion ^[1] - 49:5</p> <p>suggests ^[1] - 39:2</p> <p>suitability ^[2] - 146:17, 160:21</p> <p>suitable ^[4] - 52:1, 88:3, 101:6, 102:11</p> <p>Suite ^[4] - 2:5, 2:9, 9:8, 10:5</p> <p>suited ^[2] - 29:25, 86:19</p> <p>sum ^[1] - 144:11</p> <p>summarize ^[1] - 134:13</p> <p>Sunday ^[1] - 95:5</p> <p>Sunrise ^[4] - 113:5, 121:1, 121:25, 122:2</p>	<p>super ^[1] - 102:4</p> <p>supercede ^[3] - 144:2, 144:9, 145:22</p> <p>superceded ^[2] - 146:23, 147:8</p> <p>supermarket ^[1] - 56:8</p> <p>superseding ^[1] - 145:25</p> <p>supplied ^[2] - 7:5, 7:8</p> <p>supplies ^[1] - 95:3</p> <p>supply ^[1] - 27:22</p> <p>support ^[12] - 12:25, 23:9, 29:5, 34:8, 85:14, 85:17, 117:15, 118:8, 118:12, 134:16, 137:23, 140:14</p> <p>supportive ^[1] - 25:9</p> <p>supposed ^[3] - 116:5, 127:5, 131:9</p> <p>supposedly ^[1] - 131:9</p> <p>surrounding ^[5] - 32:25, 34:18, 50:8, 132:16, 141:10</p> <p>Survey ^[2] - 35:5, 130:11</p> <p>survey ^[1] - 154:14</p> <p>sustained ^[2] - 159:8, 162:20</p> <p>SWAN ^[1] - 91:16</p> <p>swear ^[3] - 9:3, 113:15, 113:18</p> <p>SWORN ^[2] - 3:2, 4:2</p> <p>sworn ^[4] - 9:9, 109:1, 109:3, 148:21</p> <p>SZABO ^[14] - 2:20, 50:13, 50:17, 51:25, 52:7, 52:16, 61:8, 63:5, 63:11, 63:14, 63:25, 106:7, 107:1, 107:4</p> <p>Szabo ^[1] - 3:6</p>	<p>120:14, 121:1, 124:11, 125:4, 128:2, 128:13, 129:5, 129:11, 129:19, 129:22, 130:16, 141:10, 141:25, 142:23, 159:3, 159:4, 167:10</p> <p>Tappan's ^[3] - 12:18, 13:15, 28:24</p> <p>target ^[1] - 106:11</p> <p>task ^[1] - 137:21</p> <p>tax ^[2] - 14:18, 105:10</p> <p>team ^[8] - 16:2, 19:4, 20:23, 46:9, 48:18, 84:21, 135:2, 140:10</p> <p>team's ^[2] - 19:5, 19:14</p> <p>teams' ^[1] - 62:16</p> <p>technical ^[1] - 45:12</p> <p>technically ^[2] - 45:14, 56:15</p> <p>techniques ^[1] - 41:8</p> <p>Tenafly ^[1] - 91:14</p> <p>tenants ^[1] - 65:3</p> <p>tentative ^[1] - 77:3</p> <p>tenths ^[1] - 105:18</p> <p>term ^[3] - 97:2, 98:22, 161:19</p> <p>terms ^[16] - 17:25, 23:22, 32:23, 36:20, 37:3, 44:12, 50:21, 51:11, 59:2, 64:21, 70:13, 84:12, 84:24, 118:23, 122:8, 130:8</p> <p>Terrence ^[1] - 94:2</p> <p>test ^[9] - 30:10, 33:11, 34:12, 68:2, 68:3, 68:8, 146:22, 161:1, 161:2</p> <p>testified ^[22] - 22:6, 22:22, 36:19, 51:3, 65:17, 74:13, 75:1, 114:2, 114:4, 122:8, 122:11, 130:8, 130:10, 131:20, 134:14, 136:4, 137:7, 138:7, 157:11, 157:15, 160:18, 162:9</p> <p>testifies ^[1] - 9:9</p> <p>testify ^[15] - 49:20, 60:4, 122:7, 126:13, 126:15, 130:10, 139:15, 148:25, 152:21, 157:9, 157:20, 159:25, 164:16, 168:18, 168:19</p> <p>testifying ^[3] - 127:13,</p>	<p>129:13, 130:13</p> <p>testimony ^[84] - 5:23, 5:25, 8:25, 9:4, 12:1, 14:1, 14:7, 14:10, 16:10, 18:10, 18:11, 18:14, 19:23, 20:4, 21:22, 32:11, 33:4, 33:19, 34:8, 34:9, 34:22, 34:23, 36:7, 42:2, 44:14, 48:3, 51:1, 52:4, 52:10, 65:22, 79:12, 84:25, 94:14, 94:15, 95:22, 96:7, 98:15, 104:10, 113:15, 114:8, 114:10, 122:14, 127:23, 128:4, 128:18, 129:24, 130:22, 130:24, 133:14, 135:25, 136:3, 137:19, 138:10, 140:16, 141:24, 142:9, 144:22, 145:2, 146:20, 149:10, 150:2, 150:11, 150:13, 150:15, 154:10, 154:12, 154:14, 156:4, 156:14, 158:6, 158:8, 158:9, 158:10, 159:7, 160:7, 160:24, 161:20, 162:12, 163:22, 165:8, 165:15, 167:25, 173:6</p> <p>THE ^[134] - 1:3, 11:21, 15:5, 26:3, 49:17, 50:16, 51:13, 52:3, 52:9, 52:23, 53:6, 53:9, 54:24, 55:10, 55:15, 56:24, 57:16, 58:11, 58:20, 59:2, 59:5, 59:9, 59:14, 60:14, 60:19, 62:13, 63:2, 63:10, 63:13, 63:19, 64:15, 65:15, 66:7, 66:18, 67:8, 67:18, 68:4, 72:1, 79:8, 79:24, 80:15, 80:20, 81:16, 82:2, 82:22, 83:4, 83:24, 84:4, 84:9, 84:12, 85:4, 85:10, 87:23, 94:6, 94:9, 94:12, 96:2, 96:6, 98:15, 100:22, 100:25, 102:2, 102:20, 102:25, 104:7, 104:17, 108:20,</p>	<p>108:22, 112:12, 112:16, 112:20, 117:10, 117:13, 117:23, 118:7, 118:22, 119:2, 119:4, 119:9, 119:15, 120:9, 120:15, 120:19, 120:22, 121:4, 121:7, 121:17, 121:20, 122:16, 125:13, 125:15, 128:3, 128:16, 129:6, 130:20, 131:19, 131:23, 133:8, 134:3, 134:5, 134:10, 135:1, 137:4, 137:6, 137:8, 140:4, 141:12, 142:9, 142:17, 143:15, 144:6, 145:23, 146:3, 147:23, 148:12, 148:17, 151:8, 152:3, 153:1, 153:7, 153:13, 153:19, 156:14, 159:18, 159:21, 160:2, 160:18, 161:8, 161:18, 167:12, 167:16, 169:6, 169:10, 171:16</p> <p>themselves ^[2] - 5:15, 95:13</p> <p>Theo ^[1] - 3:15</p> <p>theoretically ^[1] - 145:16</p> <p>THERE ^[1] - 1:9</p> <p>therefore ^[4] - 31:22, 39:10, 82:14, 89:21</p> <p>thereon ^[1] - 39:19</p> <p>they've ^[4] - 22:22, 64:16, 64:17, 146:20</p> <p>third ^[12] - 32:17, 44:15, 64:8, 64:19, 65:2, 65:18, 68:2, 68:7, 69:20, 93:15, 118:5</p> <p>THOMAS ^[2] - 1:12, 2:19</p> <p>threatened ^[1] - 164:14</p> <p>three ^[16] - 19:17, 23:23, 23:24, 44:10, 64:7, 65:7, 70:5, 72:20, 73:7, 73:18, 86:6, 108:24, 123:10, 124:10, 124:19, 124:22</p> <p>three-page ^[1] -</p>
--	---	--	---	---

<p>123:10 three-story [3] - 19:17, 73:7, 124:10 throughout [4] - 10:22, 138:25, 142:3, 154:10 Tice [2] - 2:5, 2:5 ticket [2] - 116:24, 117:2 ticketed [1] - 116:14 tie [1] - 5:24 tied [3] - 41:17, 45:21, 167:6 tier [3] - 93:14, 93:15, 93:16 title [1] - 79:13 today [4] - 30:8, 138:14, 142:8, 146:11 together [4] - 5:24, 8:11, 113:13, 113:20 Tom [1] - 49:10 Tom's [1] - 171:4 tomorrow [1] - 146:24 tonight [4] - 7:23, 12:1, 77:1, 79:6 tonight's [1] - 77:10 took [5] - 12:9, 60:2, 60:3, 105:10, 130:5 top [1] - 51:15 topic [1] - 150:21 topography [3] - 39:17, 61:25, 81:13 topology [1] - 28:21 total [5] - 15:6, 17:21, 39:4, 57:11, 132:25 totality [6] - 85:12, 86:2, 103:6, 104:8, 123:2, 139:5 tough [1] - 60:24 towed [1] - 116:15 town [33] - 69:6, 83:9, 83:19, 86:2, 86:3, 86:17, 86:18, 86:20, 89:18, 91:12, 91:20, 91:22, 92:1, 93:15, 93:16, 97:23, 98:2, 99:1, 99:6, 99:15, 99:17, 104:1, 105:1, 105:4, 106:15, 107:2, 108:10, 128:1, 128:9, 128:10, 153:5, 156:13, 171:5 townhome [1] - 58:25 townhomes [3] - 61:14, 61:15, 61:22 townhouse [2] - 58:9, 80:2 towns [2] - 121:2,</p>	<p>165:20 Township [5] - 11:7, 34:4, 38:24, 121:3, 121:23 township [1] - 68:1 track [1] - 30:21 tradeoff [4] - 43:14, 44:22, 103:11, 138:8 tradeoffs [1] - 41:13 traditional [1] - 39:14 traffic [42] - 19:22, 19:23, 20:2, 22:6, 22:7, 22:8, 22:15, 36:6, 36:7, 49:19, 49:21, 49:24, 52:11, 57:6, 58:9, 58:11, 58:13, 58:19, 59:12, 60:9, 62:10, 94:15, 94:20, 95:4, 95:11, 95:16, 95:17, 95:22, 95:25, 96:5, 96:11, 96:13, 96:14, 96:16, 135:13, 135:16, 136:6, 137:12, 138:5, 138:6 trained [1] - 16:7 transcript [3] - 7:5, 13:6, 173:10 TRANSCRIPT [1] - 1:3 transcripts [1] - 36:13 transfer [1] - 115:3 transferable [1] - 167:11 transition [1] - 18:25 transported [1] - 68:17 travels [2] - 153:14, 167:5 treated [1] - 34:20 tree [4] - 63:12, 74:10, 138:11 trees [25] - 59:19, 59:24, 60:1, 60:16, 61:24, 73:19, 73:23, 74:1, 74:4, 74:14, 74:17, 74:19, 74:21, 75:2, 75:19, 86:9, 86:10, 89:2, 90:5, 132:5, 132:6, 132:14, 133:3, 134:18, 164:24 trend [3] - 26:21, 97:25, 141:24 trends [1] - 141:22 trial [2] - 92:9, 125:18 tried [3] - 66:20, 102:25, 137:9 triggered [3] - 17:5, 21:6, 156:22 trip [1] - 58:21</p>	<p>truck [5] - 20:19, 55:1, 55:2, 55:13, 55:14 truckers [1] - 56:5 true [5] - 39:17, 43:14, 49:6, 127:20, 127:21 truly [4] - 18:1, 120:24, 122:23, 122:24 trust [1] - 85:10 truth [1] - 9:5 try [7] - 14:6, 81:17, 106:11, 133:8, 134:13, 144:7, 170:19 trying [5] - 94:22, 106:5, 113:18, 117:23, 134:19 Tsunami [3] - 35:20, 85:18, 127:25 turn [3] - 20:20, 126:24, 163:13 turnaround [1] - 95:2 turns [1] - 49:25 turtle [1] - 164:14 Tweets [1] - 171:8 two [37] - 14:7, 16:21, 17:18, 30:10, 39:13, 56:16, 56:17, 64:11, 64:14, 64:17, 65:5, 65:6, 65:13, 81:19, 85:13, 85:15, 87:9, 90:13, 90:14, 93:9, 97:17, 97:18, 105:16, 115:1, 115:2, 118:6, 118:7, 130:8, 130:9, 132:10, 136:24, 141:12, 160:22, 162:3, 169:4 two-prong [1] - 30:10 two-story [3] - 64:11, 65:5, 65:13 type [16] - 35:2, 35:17, 49:16, 58:16, 58:22, 63:17, 69:13, 80:17, 85:15, 94:17, 94:18, 95:2, 96:15, 128:24 types [6] - 27:21, 34:16, 51:3, 87:10, 94:20, 113:1 typical [1] - 63:7 typically [4] - 13:25, 26:24, 47:12, 49:18 typologies [1] - 99:4 typology [2] - 25:20, 99:3</p>	<p>24:19, 26:14, 85:19 under [19] - 15:9, 19:23, 23:7, 31:7, 34:11, 37:22, 37:25, 38:21, 40:3, 43:6, 43:20, 60:10, 73:10, 88:1, 100:13, 121:24, 168:22, 169:16, 173:6 underneath [1] - 132:10 underscores [1] - 128:23 understood [1] - 78:15 undeveloped [3] - 147:17, 148:2, 148:3 undo [1] - 146:17 undoubtedly [1] - 74:23 undue [2] - 30:6, 160:21 unfamiliar [1] - 13:21 unfortunately [1] - 131:8 unfurnished [1] - 25:5 Union [1] - 34:4 unique [4] - 28:11, 39:16, 101:21, 126:4 unit [1] - 25:6 units [12] - 25:4, 33:20, 49:22, 50:17, 52:7, 52:15, 57:21, 57:22, 57:25, 122:21, 135:19, 136:24 universally [1] - 31:10 University [2] - 10:11, 149:14 unless [2] - 8:23, 168:14 unlock [1] - 144:4 up [47] - 7:6, 7:17, 40:12, 53:25, 54:8, 55:1, 55:2, 55:14, 56:12, 59:13, 61:8, 62:17, 65:19, 68:5, 75:18, 80:5, 82:17, 84:22, 85:22, 87:9, 90:6, 91:13, 96:24, 100:5, 100:6, 104:22, 104:24, 112:22, 112:23, 113:3, 116:22, 117:6, 124:6, 126:24, 126:25, 130:5, 132:8, 137:9, 137:11, 137:22, 139:12, 139:24, 140:22, 141:2,</p>	<p>144:12, 164:13 update [1] - 26:10 updated [2] - 8:12, 20:17 Updated [2] - 4:17, 8:20 upload [1] - 123:14 urban [4] - 42:11, 148:23, 154:1, 162:6 usage [1] - 87:15 users [1] - 19:20 uses [20] - 22:16, 23:3, 27:15, 29:14, 30:4, 31:8, 31:17, 31:20, 32:3, 33:2, 34:16, 34:20, 62:20, 69:13, 80:1, 80:17, 82:13, 87:13, 101:18, 146:16 utilization [3] - 44:1, 120:25, 121:4</p>
V				
<p>vacant [4] - 59:7, 81:21, 82:11, 82:16 vague [1] - 159:14 valuable [3] - 42:9, 152:2, 152:5 value [28] - 31:11, 83:20, 83:21, 83:23, 83:25, 84:5, 84:8, 148:3, 151:6, 151:20, 152:8, 152:12, 152:15, 152:21, 153:5, 153:9, 153:20, 153:21, 154:1, 155:17, 156:7, 159:1, 159:2, 159:3, 162:6, 162:7 valuing [1] - 151:11 variance [28] - 22:24, 23:1, 23:7, 24:19, 29:17, 32:15, 33:5, 33:24, 36:24, 37:22, 38:1, 38:5, 38:11, 38:14, 43:7, 43:20, 45:12, 48:10, 66:9, 134:16, 136:5, 143:14, 143:18, 145:14, 146:12, 153:20, 158:12, 169:3 variances [24] - 5:11, 6:2, 14:22, 23:6, 23:9, 23:11, 29:7, 37:13, 37:14, 37:21, 37:25, 38:12, 38:15, 38:16, 38:21, 39:11,</p>				

<p>39:13, 41:11, 43:6, 47:23, 48:12, 48:15, 51:4, 64:6</p> <p>variety [4] - 10:17, 13:19, 27:20, 81:22</p> <p>various [1] - 48:11</p> <p>varying [1] - 27:13</p> <p>vehicle [1] - 22:12</p> <p>vehicles [1] - 55:13</p> <p>verbatim [2] - 103:4, 173:5</p> <p>versus [5] - 39:21, 101:25, 104:5, 136:11, 152:22</p> <p>Vice [1] - 3:7</p> <p>VICE [24] - 1:11, 53:1, 53:7, 53:10, 53:18, 54:3, 54:14, 54:19, 54:25, 55:8, 55:11, 55:23, 56:3, 56:10, 56:18, 56:25, 58:4, 59:17, 60:5, 60:15, 61:6, 62:23, 76:8, 100:5</p> <p>VICKEN [1] - 1:16</p> <p>view [4] - 86:15, 89:22, 126:10, 145:5</p> <p>violation [1] - 38:16</p> <p>virgin [1] - 81:10</p> <p>visibility [1] - 102:12</p> <p>visit [1] - 132:11</p> <p>visited [2] - 13:1, 82:23</p> <p>visiting [1] - 132:13</p> <p>visual [2] - 41:7, 41:24</p> <p>voice [1] - 124:9</p> <p>VOIR [1] - 9:19</p> <p>Voir [1] - 3:3</p> <p>volunteer [2] - 11:2, 68:14</p> <p>volunteers [1] - 116:21</p> <p>vote [3] - 84:22, 169:2, 169:13</p> <p>vs [1] - 37:15</p> <p>vulnerable [1] - 95:1</p>	<p>Wall [1] - 68:1</p> <p>wants [1] - 154:21</p> <p>warmed [1] - 140:8</p> <p>Washington [4] - 11:7, 109:18, 121:3, 121:23</p> <p>wasting [1] - 158:18</p> <p>water [8] - 18:17, 18:22, 29:9, 62:1, 134:4, 134:19, 136:23, 165:6</p> <p>website [1] - 123:12</p> <p>WEDNESDAY [1] - 1:2</p> <p>Weidmann [2] - 3:11, 15:3</p> <p>WEIDMANN [86] - 1:10, 49:9, 50:10, 50:12, 52:18, 52:24, 63:3, 64:4, 67:19, 67:21, 67:24, 69:1, 71:12, 71:21, 71:23, 72:9, 72:17, 72:20, 72:24, 73:1, 73:16, 74:1, 74:5, 74:9, 74:16, 75:5, 75:9, 75:13, 75:16, 76:2, 76:4, 76:9, 78:18, 79:2, 80:6, 80:21, 82:19, 85:23, 86:24, 87:4, 87:16, 93:2, 93:5, 95:6, 96:17, 97:7, 97:10, 97:13, 100:15, 104:20, 105:7, 109:2, 109:12, 109:14, 110:1, 111:10, 111:18, 111:22, 111:25, 117:3, 120:10, 123:24, 124:3, 124:25, 125:8, 126:1, 126:12, 126:15, 126:23, 127:3, 127:12, 129:12, 129:17, 131:14, 138:16, 139:19, 140:25, 142:18, 147:11, 148:15, 162:23, 163:7, 166:23, 167:24, 169:9, 171:7</p> <p>weigh [2] - 84:22, 104:9</p> <p>weighing [3] - 36:20, 36:21, 163:19</p> <p>welfare [5] - 31:13, 34:2, 40:23, 41:5, 51:23</p> <p>well.. [1] - 111:9</p> <p>Wendy [2] - 3:16,</p>	<p>96:18</p> <p>west [3] - 101:13, 101:16, 126:8</p> <p>West [1] - 1:21</p> <p>wetland [1] - 62:17</p> <p>wetlands [11] - 18:25, 19:2, 19:3, 41:14, 43:15, 45:22, 57:14, 63:9, 127:10, 133:13, 134:19</p> <p>whack [1] - 44:5</p> <p>whatnot [1] - 132:14</p> <p>WHEATLE [2] - 3:3, 4:3</p> <p>Wheatle [1] - 9:15</p> <p>wherewithal [1] - 147:1</p> <p>whispering [1] - 60:23</p> <p>whole [4] - 16:20, 35:14, 108:7, 113:4</p> <p>wholeheartedly [1] - 7:3</p> <p>wholesale [1] - 86:9</p> <p>wide [1] - 56:14</p> <p>widen [1] - 20:25</p> <p>widening [7] - 16:22, 17:3, 21:2, 22:8, 36:8, 67:14, 95:9</p> <p>WILLIAM [2] - 1:10, 1:11</p> <p>williams [1] - 142:24</p> <p>Williams [20] - 8:25, 9:1, 9:15, 9:16, 11:25, 51:2, 63:6, 77:12, 77:15, 94:5, 94:14, 95:14, 130:19, 135:22, 138:18, 139:10, 165:7, 165:11, 167:4, 168:7</p> <p>WILLIAMS [5] - 3:3, 4:3, 9:6, 9:13, 9:18</p> <p>Williams' [4] - 11:17, 114:10, 129:24, 158:10</p> <p>willing [2] - 46:18, 169:18</p> <p>willingness [1] - 67:1</p> <p>wind [2] - 6:14, 31:15</p> <p>winding [1] - 46:11</p> <p>wise [2] - 8:4, 93:10</p> <p>wish [5] - 79:3, 131:14, 139:19, 142:18, 166:24</p> <p>withstanding [1] - 39:8</p> <p>witness [8] - 11:12, 26:1, 98:9, 127:15, 140:9, 140:10, 149:8, 152:14</p>	<p>WITNESS [117] - 11:21, 15:5, 26:3, 49:17, 50:16, 51:13, 52:3, 52:9, 52:23, 53:6, 53:9, 54:24, 55:10, 55:15, 56:24, 57:16, 58:11, 58:20, 59:2, 59:5, 59:9, 59:14, 60:14, 60:19, 62:13, 63:2, 63:10, 63:13, 63:19, 64:15, 65:15, 66:7, 66:18, 67:8, 67:18, 72:1, 79:8, 79:24, 80:15, 80:20, 81:16, 82:2, 82:22, 83:4, 83:24, 84:4, 84:9, 84:12, 85:4, 85:10, 87:23, 96:2, 96:6, 98:15, 100:22, 100:25, 102:2, 102:20, 102:25, 104:7, 104:17, 117:23, 118:7, 118:22, 119:2, 119:4, 119:9, 119:15, 120:9, 121:4, 121:7, 121:17, 121:20, 122:16, 125:13, 125:15, 128:3, 128:16, 129:6, 130:20, 131:19, 131:23, 133:8, 134:3, 134:5, 134:10, 135:1, 137:4, 137:6, 137:8, 140:4, 141:12, 142:9, 142:17, 143:15, 144:6, 145:23, 146:3, 147:23, 148:12, 148:17, 151:8, 152:3, 153:1, 153:7, 153:13, 153:19, 156:14, 159:18, 159:21, 160:2, 160:18, 161:8, 161:18, 167:12, 167:16, 171:16</p> <p>witnessed [1] - 28:9</p> <p>witnesses [11] - 13:19, 14:2, 14:11, 44:14, 98:10, 139:11, 165:15, 168:2, 168:3, 168:12, 168:18</p> <p>witnesses' [1] - 5:24</p> <p>wondering [7] - 95:10, 96:22, 97:6, 113:21, 114:12, 115:6,</p>	<p>121:15</p> <p>Woodcliff [1] - 2:6</p> <p>word [8] - 30:16, 58:24, 61:25, 66:21, 106:12, 134:23, 152:25</p> <p>wording [1] - 100:20</p> <p>words [1] - 73:22</p> <p>works [1] - 39:10</p> <p>worry [3] - 150:3, 162:25, 163:24</p> <p>worth [7] - 15:5, 17:9, 17:20, 17:24, 43:9, 45:22, 155:13</p> <p>writing [1] - 56:19</p> <p>written [1] - 170:11</p> <p>wrote [2] - 56:21, 79:7</p>
Y				
<p>yard [10] - 24:2, 24:4, 38:17, 45:5, 45:17, 46:2, 46:5, 46:10, 67:9</p> <p>yards [1] - 60:12</p> <p>year [17] - 6:15, 6:19, 13:11, 26:4, 35:5, 93:12, 95:12, 99:16, 100:25, 130:11, 130:17, 130:25, 141:2, 146:25, 169:1, 169:14</p> <p>years [8] - 10:15, 26:17, 35:8, 35:10, 53:8, 105:21, 125:22, 129:21</p> <p>yelling [1] - 152:20</p> <p>yesterday [1] - 135:8</p> <p>young [1] - 117:5</p> <p>yourself [1] - 154:2</p> <p>yup [5] - 63:13, 121:6, 123:4, 124:20, 142:17</p>				
Z				
<p>zero [1] - 144:11</p> <p>zone [8] - 23:3, 30:23, 31:2, 37:12, 38:7, 47:25, 80:9, 101:7</p> <p>zoned [3] - 86:8, 90:3, 90:4</p> <p>Zoning [2] - 26:11, 33:5</p> <p>zoning [20] - 10:18, 11:3, 11:12, 12:19, 26:10, 27:18, 29:24, 34:18, 39:23, 40:4, 40:7, 47:20, 63:8, 144:3, 146:16,</p>				

160:20, 160:23,
161:2